

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

17 CR 684 (ER)

5 CHRISTIAN DAWKINS AND MERL  
6 CODE ,

Trial

7 Defendants.

-----x

8 New York, N.Y.  
9 May 3, 2019  
10 9:00 a.m.

11 Before:

12 HON. EDGARDO RAMOS

13 District Judge

14 APPEARANCES

15 GEOFFREY S. BERMAN

United States Attorney for the  
Southern District of New York

16 ROBERT L. BOONE

17 NOAH D. SOLOWIEJCZYK

ELI J. MARK

Assistant United States Attorneys

18 HANEY LAW GROUP PLLC

Attorney for Defendant Dawkins

19 BY: STEVEN A. HANEY, SR.

20 CHANEY LEGAL SERVICES, LLC

21 BY: DAVID A. CHANEY, JR.

-and-

22 NEXSEN PRUET, LLC

23 BY: ANDREW A. MATHIAS

MARK C. MOORE

Attorneys for Defendant Code

24 ALSO PRESENT: JOHN VOURDERIS, Special Agent FBI  
25 YOLANDA BUSTILLO, Paralegal Specialist USAO  
EMILY GOLDMAN, Paralegal Specialist USAO

1 (Trial resumed; jury not present)

2 THE COURT: Good morning, everyone. It's 9 o'clock.

3 The only bit of news that I have is that we received a  
4 telephone call from Alternate No. 2 indicating that her train  
5 was delayed. She said she hoped to be here by 9:30, but  
6 couldn't promise that she'd be here exactly at 9:30.

7 Any business from either side?

8 MR. BOONE: Not from the government.

9 MR. HANEY: No, your Honor.

10 MR. CHANEY: No, Judge.

11 THE COURT: That is the right answer at this stage.  
12 So we'll await the jury.

13 (Recess)

14 THE COURT: We're waiting on one juror.

15 MR. MOORE: Your Honor, could I put one thing on the  
16 record while we wait?

17 THE COURT: Sure.

18 MR. MOORE: I very much appreciate, as does Mr. Code,  
19 your excusing me from deliberations. I would just put on the  
20 record that also present, although not sitting at counsel table  
21 with us, is Mr. Code's father. Mr. Code's father is a seasoned  
22 attorney, more seasoned than I, and he will be here during  
23 deliberations for strategic and other decisions. I just  
24 thought I should put that on the record.

25 THE COURT: And I think Mr. Code Sr. is counsel of

1 record as well.

2 MR. MOORE: He is, yes, sir, your Honor, he was.

3 MR. CODE SR.: Yes, sir, when I heard Mark might have  
4 to go back to deliberate, I thought I may be able to do the  
5 closings. I was disappointed.

6 THE COURT: Will you be ready this afternoon?

7 (Jury present)

8 THE COURT: Everyone please be seated.

9 Good morning, ladies and gentlemen. I trust you all  
10 had a pleasant evening, and thank you, as always, for being so  
11 prompt.

12 What we're going to do now, and this is actually a  
13 little bit nontraditional, rather than having the lawyers'  
14 summations first followed by the instructions, the parties have  
15 agreed that I provide the instructions first in this case  
16 because there are some issues that will -- the parties believe  
17 will help you understand the arguments that they make that will  
18 be in the instructions.

19 Now, you each have a copy of the instructions in the  
20 binder that was put on your chairs. I don't believe that you  
21 will need the larger binder with the transcripts. So if you  
22 want to make yourselves more comfortable, you can put those to  
23 the side.

24 The jury instructions are a very important part of any  
25 trial. The words that are actually used are very important to

1 your determination as to what the outcome of the case will  
2 ultimately be, and therefore, it is traditional that the charge  
3 is read to the jury by the judge.

4       You have a copy of it. A couple of things about that.  
5 You will also have a copy of the instructions when you  
6 deliberate, so there's no need for you to try to memorize  
7 anything or take notes on anything else, of course, you want  
8 to. Also, you don't have to read along as I read it. You can  
9 if you wish, but if you just want to sit and listen, that's  
10 fine.

11       The other thing is the instructions themselves are 64  
12 pages. If history is a guide, I will likely be finishing  
13 somewhere between an hour and a half to two hours.

14       Also, you should be aware that I believe sincerely  
15 that I have a lovely lilting, mellifluous voice. However, I  
16 understand that is subject to great disagreement, which is to  
17 say that if, as I am reading, you grow weary of my droning on,  
18 I will not take offense if you stand up and stretch.

19       With that, members of the jury, we have almost reached  
20 that point where you're about to begin your final function as  
21 jurors which, as you all appreciate, is one of the most  
22 important duties of citizenship in this country.

23       My instructions to you will be in four parts. First,  
24 I will give some introductory instructions about the role of  
25 the Court and of the jury and about the presumption of

innocence and the government's burden of proof. Second, I will describe the charges and the law governing those charges, which you will apply to the facts as you find them to be established by the proof. Third, I will give you instructions concerning the evaluation of evidence. And the fourth and final section of these instructions will relate to your deliberations.

I will first describe the role of the Court and of the jury.

It is my duty to instruct you as to the law, and it is your duty to accept these instructions of law and apply them to the facts as you determine them. If an attorney stated a legal principle different from any that I state to you in my instructions, it is my instructions you must follow. You should not single out any instruction as alone stating the law, but you should consider my instructions as a whole when you retire to deliberate. You should not be concerned about the wisdom of any rule that I state. Regardless of any opinion that you may have about what the law may be or ought to be, it would be a violation of your oath to base your verdict on any view of the law other than that which I give you.

You, the members of the jury, are the sole and exclusive judges of the facts. You pass on the evidence, determine the credibility of witnesses, resolve such conflicts as there may be in the testimony, draw whatever reasonable inferences you decide to draw from the facts as you determine

1 them, and determine the weight of the evidence. In doing so,  
2 remember that you took an oath to render judgment impartially  
3 and fairly, without prejudice or sympathy or fear, based solely  
4 on the evidence and the applicable law.

5 The fact that the prosecution is brought in the name  
6 of the United States of America entitles the government to no  
7 greater consideration than that given to any other party to  
8 this litigation. By the same token, the government is entitled  
9 to no less consideration.

10 The defendants, Christian Dawkins and Merl Code, have  
11 pleaded not guilty and have denied every charge against them.  
12 That means the government has the burden to prove them guilty  
13 beyond a reasonable doubt. That burden of proof never shifts  
14 to Mr. Dawkins or Mr. Code. A defendant in a criminal case  
15 never has the burden to call any witnesses or produce any  
16 evidence. Even though Mr. Dawkins and Mr. Code have presented  
17 evidence in their defense, it is not their burden to prove  
18 themselves not guilty. It is always the government's burden to  
19 prove each of the elements of the crimes charged beyond a  
20 reasonable doubt.

21 In other words, Mr. Dawkins and Mr. Code start with a  
22 clean slate. They are presumed innocent of all the charges  
23 against them, and they must be presumed innocent by you  
24 throughout your deliberations until such time, if ever, that  
25 you as a jury unanimously find that the government has proven

1 them guilty beyond a reasonable doubt. The presumption of  
2 innocence alone requires you to acquit Mr. Dawkins and Mr. Code  
3 if the government fails to prove them guilty beyond a  
4 reasonable doubt.

5 Since, in order to convict the defendants of a given  
6 charge, the government is required to prove that charge beyond  
7 a reasonable doubt, the question is what is a reasonable doubt?  
8 The words almost define themselves. It is a doubt based upon  
9 reason. It is doubt that a reasonable person has after  
10 carefully weighing all the evidence. It is a doubt that would  
11 cause a reasonable person to hesitate to act in a matter of  
12 importance in his or her personal life. Proof beyond a  
13 reasonable doubt must, therefore, be proof of a convincing  
14 character that a reasonable person would not hesitate to rely  
15 upon in making an important decision.

16 A reasonable doubt is not caprice or whim. It is not  
17 speculation or suspicion. It is not an excuse to avoid the  
18 performance of an unpleasant duty. The law does not require  
19 that the government prove guilt beyond all possible doubt.  
20 Proof beyond a reasonable doubt is sufficient to convict.

21 If, after fair and impartial consideration of the  
22 evidence, you have a reasonable doubt as to the defendant's  
23 guilt with respect to a particular charge against him, you must  
24 find the defendant not guilty of that charge. On the other  
25 hand, if, after a fair and impartial consideration of all the

1 evidence, you are satisfied beyond a reasonable doubt of the  
2 defendant's guilt with respect to a particular charge against  
3 him, you should find the defendant guilty of that charge.

4 Let us now turn to the specific charges in the  
5 indictment. I remind you that the indictment itself is not  
6 evidence. It merely describes the charges made against the  
7 defendants, Christian Dawkins and Merl Code. It is an  
8 accusation. It may not be considered by you as any evidence of  
9 the guilt of either defendant. Each charge is called a count.  
10 Before you begin your deliberations, you will be provided with  
11 a copy of the indictment. I will summarize the offenses  
12 charged in the indictment and then explain in detail the  
13 elements of each offense.

14 The indictment contains six counts. Each count must  
15 be considered separately.

16 Count One charges that Mr. Dawkins and Mr. Code  
17 engaged in a conspiracy to give and offer bribes or gratuities  
18 to agents of a federally funded organization -- specifically,  
19 certain men's college basketball coaches employed by federally  
20 funded universities -- in violation of Title 18, United States  
21 Code, Section 371.

22 Count Two charges that Mr. Dawkins and Mr. Code  
23 committed the substantive crime of giving and offering bribes  
24 or gratuities to agents of federally funded organizations --  
25 specifically, certain men's college basketball coaches employed



1 by federally funded universities -- in violation of Title 18 of  
2 the United States Code, Sections 666(a)(2) and 2.

3 Count Three charges Mr. Dawkins and Mr. Code with  
4 participating in a conspiracy to commit honest services wire  
5 fraud, in violation of Section 1349 of Title 18 of the United  
6 States Code, in connection with their alleged participation in  
7 a scheme to make bribe payments to men's college basketball  
8 coaches employed by certain universities with the intent to  
9 deprive those universities of the honest services of these  
10 coaches.

11 Count Four applies to Mr. Dawkins alone and charges  
12 that he committed the substantive crime of honest services wire  
13 fraud, in violation of Title 18, United States Code, Section  
14 1343, 1346, 1349, and 2, in connection with his alleged  
15 participation in a scheme to make bribe payments to a men's  
16 college basketball coach, Lamont Evans, with the intent to  
17 deprive the University of South Carolina and Oklahoma State  
18 University, respectively, of their right to honest services of  
19 its employees.

20 Count Five applies to Mr. Dawkins alone and charges  
21 that he committed the substantive crime of honest services wire  
22 fraud, in violation of Title 18, United States Code, Section  
23 1343, 1346, 1349, and 2, in connection with his alleged  
24 participation in a scheme to make bribe payments to a men's  
25 college basketball coach, Emanuel Richardson, with the intent

1 to deprive the University of Arizona of its right to the honest  
2 services of its employee.

3 Count Six charges Mr. Dawkins and Mr. Code with  
4 participating in a conspiracy to violate the Travel Act by  
5 traveling in interstate commerce or using facilities in  
6 interstate commerce to promote, manage, establish, carry on,  
7 and facilitate commercial bribery, in violation of Section 371  
8 of Title 18 of the United States Code, in connection with their  
9 alleged participation in a scheme to pay bribes to certain  
10 men's college basketball coaches employed by certain  
11 universities.

12 Both defendants have pleaded not guilty to these  
13 charges.

14 The indictment contains a total of six counts. Each  
15 count charges at least one defendant before you with a crime.  
16 However, not every defendant is charged in every count. You  
17 must, as a matter of law, consider each count and each  
18 defendant separately, and you must return a separate verdict on  
19 each defendant for each count in which he is charged.

20 Whether you find one defendant guilty or not guilty as  
21 to an offense should not affect your verdict as to the other  
22 defendants charged with the same offense. In reaching your  
23 verdict, bear in mind that guilt is personal and individual.  
24 Your verdict of guilty or not guilty must be based solely on  
25 the evidence about each defendant. The case against each

1 defendant on each count stands or falls upon the proof or lack  
2 of proof against that defendant alone, and your verdict as to  
3 any defendant on any count should not control your decision as  
4 to any other defendant or any other count. No other  
5 considerations are proper.

6 As I just mentioned, some counts of the indictment  
7 charge the defendants with the crime of conspiracy. Other  
8 counts charge what we call substantive crimes. Though I will  
9 give more detail later, let me briefly summarize the difference  
10 now.

11 A conspiracy count is different from a substantive  
12 count. A conspiracy charge, generally speaking, alleges that  
13 two or more persons agreed to accomplish an unlawful objective.  
14 The focus of a conspiracy count, therefore, is on whether there  
15 was an unlawful agreement. There can be no conspiracy unless  
16 at least two people reached such an agreement, whether express  
17 or implied.

18 A substantive count, on the other hand, charges a  
19 defendant with the actual commission or with aiding and  
20 abetting or causing the actual commission of an offense. A  
21 substantive offense, therefore, may be committed by a single  
22 person, and it need not involve any agreement with anyone. A  
23 conspiracy to commit a crime is an entirely separate and  
24 different offense from a substantive crime, the commission of  
25 which may be an object of the conspiracy. Since the essence of

1 the crime of conspiracy is an agreement or understanding to  
2 commit a crime, it does not matter if the crime, the commission  
3 of which was an objective of the conspiracy, was ever  
4 committed. In other words, if a conspiracy exists and certain  
5 other requirements are met, it is punishable as a crime even if  
6 its purpose is not accomplished. Consequently, in a conspiracy  
7 charge, there is no need to prove that the crime or crimes that  
8 were the objective or objectives of the conspiracy actually  
9 were committed. To give you a simple example, if two people  
10 agree to hold up a liquor store and do something to put the  
11 agreement into motion, they have committed the crime of  
12 conspiracy to commit robbery even if they never robbed the  
13 liquor store.

14 By contrast, conviction on a substantive count  
15 requires proof that the crime charged actually was committed or  
16 attempted, but does not require proof of an agreement. To take  
17 the liquor store example, there can be no substantive crime of  
18 robbery unless the liquor store actually is robbed. Of course,  
19 if a defendant both participates in a conspiracy and commits  
20 the crime or crimes that were the object or objects of the  
21 conspiracy, that defendant may be guilty of both the conspiracy  
22 and a substantive crime or crimes.

23 Of the six counts in this indictment, three of them  
24 are substantive counts and three are conspiracy counts.

25 You will note that the indictment alleges that certain

1 acts occurred on or about various dates. It is not necessary,  
2 however, for the government to prove that the alleged crimes  
3 were committed on exactly those dates. The law requires only  
4 that the government prove beyond a reasonable doubt a  
5 substantial similarity between the dates and months alleged in  
6 the indictment and the dates and months established by the  
7 evidence.

8 It is also not essential that the government prove  
9 that the charged crimes started and ended at those times  
10 specified in the indictment. It is sufficient if you find that  
11 the conspiracies and substantive crimes charged existed for  
12 some of the time within the period set forth in the indictment.

13 Count Two: Bribery

14 Let us now turn to the charges against Mr. Dawkins and  
15 Mr. Code. As I noted earlier, Count One charges the defendants  
16 with conspiracy to commit bribery, but we will first discuss  
17 Count Two, which charges the defendants with the substantive  
18 crime of bribery, as this will simplify our subsequent  
19 discussion of the conspiracy count. Count Two charges  
20 defendants Dawkins and Code with paying bribes and illegal  
21 gratuities in connection with a federally funded program.  
22 Specifically, in Count Two, the defendants are charged with  
23 paying bribes and gratuities to men's college basketball  
24 coaches intending to influence and reward those coaches in  
25 connection with the college basketball programs of the

1 university that he employed them.

2 To meet its burden of proof as to Count Two, the  
3 government must establish beyond a reasonable doubt each of the  
4 following elements:

5 First, that between in or about 2016 and in or about  
6 September 2017, the defendant you are considering gave,  
7 offered, or agreed to give a thing of value to a men's college  
8 basketball coach or to a person designated by that men's  
9 college basketball coach;

10 Second, when the defendant you are considering did so,  
11 he acted corruptly, with the intent to influence or reward the  
12 men's college basketball coach with respect to the business or  
13 transaction or series of transactions of the university that  
14 employed that men's college basketball coach;

15 Third, that the value of the business or transaction  
16 to which the payment related was at least \$5,000;

17 Fourth, that during the time period alleged in the  
18 indictment, that is, in or about 2016 to September 2017, any  
19 men's basketball coach who allegedly received payments from, or  
20 as facilitated by, the defendant you are considering was, in  
21 fact, an agent of his university; and

22 Fifth, that within a one-year period between in or  
23 about 2016 and in or about September 2017, the university that  
24 employed any men's college basketball coach who allegedly  
25 received payments from, or as facilitated by, the defendant you

are considering, received federal funds in excess of \$10,000.

Now, some of the words and phrases you just heard have special meanings under the law. I will now go through each of these elements in more detail to help explain what each element means, including the words with specialized meaning. When you are applying the elements I just listed, you must use the definitions of the words I instructed you to use.

The first element that the government must prove beyond a reasonable doubt is that the defendant you are considering gave, offered, or agreed to give a thing of value to the men's college basketball coach as alleged in the indictment.

The statute makes no distinction between giving, offering, or agreeing to give a thing of value. It is not necessary that the payment have been made directly to the men's college basketball coach. Rather, it is sufficient that the payment was made to a third party at the men's college basketball coaches direction and for that men's basketball coach's benefit.

The second element the government must prove beyond a reasonable doubt is that the defendant you are considering, knowing that the relevant men's basketball coach was an agent of his university, gave, offered, or agreed to give something of value corruptly with the intent that the men's college basketball coach be influenced or rewarded in connection with

1 some business or transaction of that coach's university.

2 Let me define some of these terms, because they have  
3 particular legal meanings.

4 To act corruptly means to act voluntarily and  
5 intentionally with an improper motive or purpose to influence  
6 or reward an agent of an organization in connection with some  
7 business or transaction of that agent's organization, here, the  
8 universities. This involves conscious wrongdoing, or as it has  
9 sometimes been expressed, a bad or evil state of mind.

10 The business or transaction that the defendant you are  
11 considering sought to influence does not have to relate to  
12 federal funding. In other words, while you must find that the  
13 university that employed the relevant men's basketball coach  
14 received more than \$10,000 in federal benefits, the defendants  
15 need not have paid, offered, or agreed to offer bribes as to  
16 any business or transaction having to do with the federal  
17 funding. Further, the phrase "business or transaction" is not  
18 limited to transactions or to commercial business of the  
19 universities, but includes intangible aspects of the business  
20 of the organization. Allow me to give you a concrete example.  
21 If an individual was charged with paying bribes to a prison  
22 guard at a federally funded facility in exchange for that  
23 prison guard allowing otherwise impermissible conjugal visits,  
24 these payments could be intended to influence the prison guard  
25 in connection with some business or transaction of the prison



1 facility because enforcement of prison rules was a component of  
2 the business of the prison.

3 Here, the government argues that the defendants  
4 offered or agreed to give something of value corruptly with the  
5 intent that the men's college basketball coach be influenced or  
6 rewarded in connection with some business or transaction of  
7 that coach's university, namely, the operation and  
8 administration of the university's men's basketball program.

9 The party giving a thing of value may have a different  
10 intent from the party receiving it. Therefore, you must decide  
11 the intent of the giver separately from the intent of the  
12 recipient. In considering this element, remember that it is  
13 the defendant's intent at least in part to influence the  
14 relevant men's college basketball coach's action which is  
15 important, not the subsequent actions of the men's college  
16 basketball coach. Thus the government does not have to prove  
17 that the relevant men's college basketball coach accepted the  
18 bribe offer or that the bribe actually influenced him in  
19 connection with some business or transaction of his university.  
20 It is not a defense if the men's college basketball coach that  
21 received the payment would have lawfully performed the action  
22 in question even without having accepted the thing of value.  
23 It is not even necessary that the men's college basketball  
24 coach who received the payment had the authority to perform the  
25 act which the defendant you are considering sought. Also, if

1 you find that the defendant you are considering acted with the  
2 intent to reward the relevant men's college basketball coach  
3 for a decision already made, it does not matter that the  
4 payment was not made or offered until after the business or  
5 transaction occurred.

6 I have just said that the government must prove beyond  
7 a reasonable doubt that the defendant must have intended the  
8 men's college basketball coach he gave money to be influenced  
9 or rewarded. There is an important distinction between the  
10 intent to influence and the intent to reward, although each is  
11 a theory under which the government can satisfy its burden of  
12 proof on this element. The intent to influence is known as a  
13 bribery theory. The intent to reward is known as a gratuity  
14 theory. Let me explain how they are different.

15 To satisfy its burden of proof under a bribery theory,  
16 the government must prove that the defendant you are  
17 considering intended to engage in a *quid pro quo*, i.e., "this  
18 for that." Specifically, the government must prove that the  
19 defendant you are considering gave, offered, or agreed to give  
20 a thing of value to the men's college basketball coach in  
21 exchange for the promise or performance of an act in connection  
22 with some business of the university that employed that coach.  
23 The government does not have to prove that at the time the  
24 defendant you are considering gave, offered, or agreed to give  
25 a thing of value to the coach that the coach promised to

1 perform a particular act. It is sufficient if the defendant  
2 intended that the coach would, in exchange for the payment, be  
3 influenced in connection with some business or transaction of  
4 his university as specific opportunities arose.

5 By contrast, to satisfy its burden of proof under a  
6 gratuity theory, the government must prove that the defendant  
7 you are considering gave, offered, or agreed to give a thing of  
8 value as a reward for some future or past action.

9 Under a gratuity theory, the government does not need  
10 to show that the defendant intended a *quid pro quo* -- a "this  
11 for that" -- but there must still be a link between the thing  
12 of value that was paid and the specific act for which, or  
13 because of which, the thing of value was paid. Put  
14 differently, even under a gratuity theory, it is not sufficient  
15 to show that a payment was given to a coach just because he  
16 generally had authority over a matter in which the payer had an  
17 interest. Instead, the government must prove that there was a  
18 link between the payment and a specific act was taken or to be  
19 taken by the coach.

20 Under the gratuity theory, if you find that the  
21 defendant you are considering gave, offered, or agreed to give  
22 a payment as a reward for an act that had already been  
23 completed, it does not matter that the payment was offered,  
24 given, or agreed to be given after the act occurred.  
25 Similarly, under this theory, if you find that the payment was

1 given, offered, or agreed to be given as a reward for an act  
2 that would be completed in the future, it does not matter that  
3 the payment was given, offered, or agreed to be given before  
4 the act was to occur.

5 In sum, to convict on a bribery theory, you must find  
6 beyond a reasonable doubt that the defendant you are  
7 considering had the intent to influence the men's college  
8 basketball coach in connection with some business or  
9 transaction of that coach's university. To convict on a  
10 illegal gratuities theory, you must find beyond a reasonable  
11 doubt that the defendant you are considering had the intent to  
12 reward the men's college basketball coach in connection with  
13 some business or transaction of that coach's university.

14 The government can satisfy this element under either a  
15 bribery theory or a gratuity theory. It need not prove both.  
16 You must, however, be unanimous on the same theory in order to  
17 find that this element has been proven.

18 The third element that the government must prove  
19 beyond a reasonable doubt is that the value of the business or  
20 transaction to which the corrupt payment related was at least  
21 \$5,000. This element does not require that the government  
22 prove that the defendant you are considering gave or offered at  
23 least \$5,000. It is the value of the business or transaction  
24 which the payment related to that is important for this  
25 element, although you may consider evidence of the value of the

1 payment offered in determining the value of the business or  
2 transaction.

3           The fourth element the government must prove beyond a  
4 reasonable doubt is that at the time alleged in the indictment,  
5 in or about 2016 to in or about 2017, any men's college  
6 basketball coach who received a payment from, or as facilitated  
7 by, the defendant you are considering was, in fact, an agent of  
8 the university that employed him.

9           An agent is a person who is authorized to act on  
10 behalf of his organization. Employees are considered agents of  
11 the organizations that employs them.

12           The fifth element the government must prove beyond a  
13 reasonable doubt is that the university that employed any men's  
14 basketball coach who received a payment from, or as facilitated  
15 by, the defendant you are considering received federal funds in  
16 excess of \$10,000 within a continuous one-year period. That  
17 one-year period must begin no more than 12 months before the  
18 defendant you are considering committed the offense and end no  
19 more than 12 months after he committed the offense.

20           In this case, there is no dispute that the  
21 universities at issue received federal funds in excess of  
22 \$10,000 within a continuous one-year period. I therefore  
23 instruct you that the fifth element is satisfied.

24           I will now turn to Count One of the indictment which  
25 charges both Mr. Dawkins and Mr. Code with participating in a

1 conspiracy to pay bribes or illegal gratuities to men's college  
2 basketball coaches employed by various universities.

3           A conspiracy is a kind of criminal partnership, a  
4 combination or agreement of two or more persons to join  
5 together to accomplish some unlawful purpose. The crime of  
6 conspiracy to pay bribes or illegal gratuities as charged in  
7 Count One of the indictment is an offense independent from the  
8 offense of actually paying bribes or illegal gratuities. That  
9 is, a conspiracy to violate a law is separate and distinct from  
10 the actual violation of any specific federal laws. The actual  
11 violation of any specific federal laws is referred to as a  
12 substantive crime. Count Two, which I just described moments  
13 ago, is a substantive crime.

14           Congress has deemed it appropriate to make  
15 conspiracies, standing alone, a separate crime, even if the  
16 object of the conspiracy is not achieved. This is because  
17 collective criminal activity is believed to pose a greater  
18 threat to the public safety and welfare than individual conduct  
19 and increases the likelihood of success of a particular  
20 criminal venture.

21           The defendants are both charged with both conspiracy  
22 to pay bribes or illegal gratuities and with the substantive  
23 crimes of paying bribes or illegal gratuities. Given that a  
24 conspiracy and a substantive crime are distinct and independent  
25 offenses, you may find that the defendant you are considering

1 guilty of the crime of conspiracy even if you find that he  
2 never actually committed the substantive crime that was the  
3 object or goal of the conspiracy. By the same token, you can  
4 find the defendant guilty of committing the substantive crime  
5 or crimes with which he is charged, here, paying bribes or  
6 illegal gratuities, even if you find him not guilty of  
7 conspiracy to pay bribes or illegal gratuities.

8 In order for you to find the defendant guilty of the  
9 conspiracy charged in Count One, the government must prove  
10 beyond a reasonable doubt the following elements:

11 First, the existence of the conspiracy charged, that  
12 is, an agreement or understanding to violate certain laws of  
13 the United States;

14 Second, that the defendant you are considering  
15 knowingly and willfully became a member of the conspiracy  
16 charged; and

17 Third, that any of the conspirators -- not necessarily  
18 the defendant you are considering, but rather any member of the  
19 conspiracy -- knowingly committed at least one overt act in  
20 furtherance of the conspiracy during the life of the  
21 conspiracy.

22 Some of the words or phrases you have just heard have  
23 special meanings under the law. I will now go through each of  
24 these elements in more detail to help explain what each element  
25 means, including the words with specialized meaning. When you

1 are applying the elements I just listed, you must use the  
2 definitions of words I instruct you to use.

3           The first element that the government must prove  
4 beyond a reasonable doubt is the existence of the conspiracy.  
5 Simply defined, a conspiracy is an agreement by two or more  
6 persons to violate the law. The object of the conspiracy is  
7 the illegal goal the coconspirators agree or hope to achieve.  
8 In this case, the unlawful object of the conspiracy charged in  
9 Count One is paying bribes or illegal gratuities to men's  
10 college basketball coaches intending to influence and reward  
11 those coaches in connection with the business of their  
12 respective universities. I have previously instructed you on  
13 the elements of paying bribes or illegal gratuities in  
14 describing Count Two, and you should apply those definitions  
15 here in considering whether the government has proved beyond a  
16 reasonable doubt that the conspiracy charged in Count One  
17 existed.

18           As I have just stated, a conspiracy is an agreement by  
19 two or more persons to violate the law. To establish a  
20 conspiracy, the government is not required to show that two or  
21 more persons sat around a table and entered into a solemn pact,  
22 orally or in writing, stating that they have formed a  
23 conspiracy to violate the law and setting forth all the details  
24 of the plans and the means by which the unlawful object is to  
25 be carried out or the part to be played by each conspirator.



1 Indeed, it would be extraordinary if there were such a formal  
2 document or specific oral agreement. When people agree to  
3 enter into a criminal conspiracy, much is left to unexpressed  
4 understanding. Since conspiracy, by its very nature, is  
5 characterized by secrecy, it is rare that a conspiracy can be  
6 proven by direct evidence of that explicit agreement. Express  
7 language or specific words are not required to indicate assent  
8 or attachment to a conspiracy. Nor is it required that you  
9 find that any particular number of alleged coconspirators  
10 joined in the conspiracy to find that a conspiracy existed.

11           Instead, you may infer the existence of a conspiracy  
12 from the circumstances of this case, including all of the  
13 evidence of the acts, conduct, and statements of the alleged  
14 coconspirators and the reasonable inferences to be drawn from  
15 such evidence. Often, the only evidence available is that of  
16 disconnected acts that, when taken together in connection with  
17 each other, show a conspiracy or agreement to secure a  
18 particular result as satisfactorily and conclusively as more  
19 direct proof. You may also consider acts and conduct of the  
20 alleged coconspirators that are done to carry out an apparent  
21 criminal purpose. Proof concerning the accomplishment of the  
22 objects of the conspiracy may be evidence of the existence of  
23 the conspiracy itself.

24           However, it is not necessary that the conspiracy  
25 actually succeeded in its purpose in order for you to conclude

1 that the conspiracy existed. As I said, the essence of the  
2 crime of conspiracy is the unlawful combination or agreement to  
3 violate the law. The actual success of the conspiracy, or the  
4 actual commission of the crime that is the object of the  
5 conspiracy, is not material to the question of guilt or  
6 innocence of the coconspirator, for a conspiracy is a crime  
7 entirely separate and distinct from the substantive crime that  
8 may be the goal of the conspiracy.

9 In order for a defendant to be guilty of a conspiracy,  
10 he must have conspired with at least one true coconspirator.  
11 It is not enough for the government to show that the defendant  
12 you are considering agreed only with an undercover agent or  
13 government informant to commit the underlying offense, for  
14 there is no agreement on a common purpose in such cases. Some  
15 other person who was not an undercover agent or government  
16 informant must have entered into the unlawful agreement with  
17 the defendant in order for a conspiracy to exist.

18 The second element that the government must prove  
19 beyond a reasonable doubt is that the defendant you are  
20 considering knowingly and willfully became a member of the  
21 conspiracy charged.

22 To act knowingly means to act intentionally and  
23 voluntarily and not because of ignorance, mistake, accident or  
24 carelessness.

25 To act willfully means to act voluntarily and with a

1 wrongful purpose.

2           Therefore, in deciding whether the defendant you are  
3 considering became a member of the conspiracy, you must  
4 consider whether the defendant intentionally and voluntarily  
5 joined a conspiracy knowing its unlawful purpose and with the  
6 intent of furthering the conspiracy's objective.

7           You must determine whether the defendant you are  
8 considering had the required knowledge and willfulness based on  
9 the facts proved during the trial. To knowingly and willfully  
10 become a member of the conspiracy, the defendant you are  
11 considering need not have known the identities of each and  
12 every other member, nor need he have been apprised of all of  
13 their activities. Moreover, the defendant you are considering  
14 need not have been fully informed as to all the details or the  
15 scope of the conspiracy in order to justify an inference of  
16 knowledge on his part. The defendant must, however, have  
17 agreed to participate in a conspiracy charged with knowledge of  
18 its object. Here, as I stated, the object of the alleged  
19 conspiracy was to pay bribes or illegal gratuities to men's  
20 college basketball coaches employed by various universities.

21           The extent of a defendant's participation has no  
22 bearing on the issue of a defendant's guilt. A conspirator's  
23 liability is not measured by the extent or duration of his  
24 participation. Indeed, each member may perform separate and  
25 distinct acts and may perform them at different times. Some

1 conspirators play major roles, while others play minor parts in  
2 the scheme. An equal role is not what the law requires. In  
3 fact, even a single act may be sufficient to draw a defendant  
4 within the ambit of the conspiracy. If you determine that the  
5 defendant you are considering became a member of the  
6 conspiracy, the duration and extent of the defendant's  
7 participation has no bearing on the issue of the defendant's  
8 guilt. He need not have joined a conspiracy at the outset. He  
9 may have joined it at any time -- at the beginning, in the  
10 middle, or at the end.

11           However, I want to caution you that a person's mere  
12 association with a member of the conspiracy does not make that  
13 person a member of the conspiracy, even when that association  
14 is coupled with knowledge that a conspiracy is occurring. In  
15 other words, knowledge of a conspiracy without agreement to  
16 participate in it is not sufficient. What is necessary is that  
17 a defendant participated in the conspiracy with knowledge of  
18 its unlawful purpose and with an intent to aid in the  
19 accomplishment of its unlawful purpose.

20           The third element is the requirement of an overt act.  
21 To sustain its burden of proof with respect to the conspiracy  
22 charged in Count One of the indictment, the government must  
23 show beyond a reasonable doubt that at least one overt act was  
24 committed in furtherance of that conspiracy by at least one of  
25 the coconspirators, not necessarily the defendants. Please

1 keep in mind that undercover agents are not coconspirators to a  
2 conspiracy, and their conduct cannot satisfy the overt act  
3 element of this charge.

4 An overt act is any outward, objective action intended  
5 to help achieve the object of the conspiracy. An overt act  
6 itself can be entirely innocent and legal, but it must  
7 contribute to the goals of the conspiracy.

8 Count One of the indictment contains a section  
9 entitled "Overt Acts." These overt acts are examples of  
10 conduct alleged to have been undertaken by members of the  
11 conspiracy to promote the illegal objectives of the conspiracy.  
12 The overt acts are alleged are as follows:

13 Now, ladies and gentlemen, I will read from the  
14 indictment. You will have the indictment during your  
15 deliberations.

16 Paragraph 43: In furtherance of this conspiracy, and  
17 to effect the illegal objects thereof, the following overt  
18 acts, among others, were committed in the Southern District of  
19 New York and elsewhere:

20 A. On or about March 3, 2016, in South Carolina,  
21 Christian Dawkins, the defendant, the defendants Evans, Sood,  
22 and CW-1 met, during which meeting Evans, Dawkins, Sood, and  
23 CW-1 discussed, in sum and substance, that Evans could direct  
24 and influence certain student athletes that Evans coached at  
25 the University of South Carolina to retain the services of

1 Dawkins, Sood, and CW-1.

2 B. On or about June 20, 2017, a meeting that had been  
3 arranged for by Dawkins occurred in Manhattan, New York,  
4 between Richardson, Sood, CW-1, and UC-1, among others, during  
5 which Richardson received a cash bribe of \$5,000.

6 C. On or about June 20, 2017, Merl Code, the  
7 defendant, Dawkins, Sood, CW-1, and UC-1, among others, met in  
8 Manhattan, New York, during which meeting Code received a cash  
9 payment of \$5,000 and agreed to identify and make introductions  
10 to certain corrupt men's college basketball coaches that would  
11 be willing to accept bribe payments in exchange for steering  
12 certain of their student athletes to retain the services of the  
13 company being formed by Dawkins, Sood, and UC-1.

14 D. On or about July 29, 2017, a meeting arranged by  
15 Code occurred in Las Vegas, Nevada, between Dawkins, Bland,  
16 CW-1, and UC-1, among others, during which Bland discussed  
17 steering student athletes under his control to retain the  
18 services of the company being formed by Dawkins, Sood, and  
19 UC-1, and after which Dawkins paid Bland a cash bribe.

20 E. On or about July 28, 2017, a meeting arranged by  
21 Code occurred in Las Vegas, Nevada, between Dawkins, Coach-1,  
22 CW-1, and UC-1, among others, during which Coach-1 discussed  
23 steering student athletes under his control to retain the  
24 services of Dawkins' company, and UC-1 paid Coach-1 a \$6,000  
25 cash bribe.

1 F. On or about July 28, 2017, Dawkins, Coach-2, CW-1,  
2 and UC-1, among others, met in a hotel room in Las Vegas,  
3 Nevada, to discuss Coach-2's steering of student athletes under  
4 his control to retain the services of Dawkins' company. During  
5 the meeting, UC-1 paid Coach-2 a \$6,000 cash bribe.

6 In order for the government to satisfy this element,  
7 it is not required that all of the overt acts alleged in the  
8 indictment or even any of the overt acts contained in the  
9 indictment be proven. You may find that another overt act that  
10 is not described in the indictment was committed. As a jury,  
11 you need not reach unanimous agreement on whether a particular  
12 overt act was committed in furtherance of the conspiracy; you  
13 just need to all agree that at least one overt act was so  
14 committed.

15 The overt act need not have been committed at  
16 precisely the times alleged in the indictment. It is  
17 sufficient if you are convinced beyond a reasonable doubt that  
18 it occurred at or about the time and place stated, as long as  
19 it occurred while the conspiracy was still in existence.

20 Now, indictment alleges that the conspiracy in Count  
21 One existed from at least in or about 2016, up to and including  
22 about September 2017. It is not essential that the government  
23 prove that the conspiracy alleged started and ended within the  
24 specific time period. Indeed, it is sufficient if you find  
25 that a conspiracy was formed and that it existed for some time

1 within the period set forth in the indictment.

2 Counts Four and Five: Honest Services Wire Fraud

3 Counts Four and Five charge Mr. Dawkins with engaging  
4 in the substantive crime of honest services wire fraud with  
5 respect to two different college coaches. Counts Four and Five  
6 are not against Mr. Code. They are against Mr. Dawkins only.  
7 Specifically, Count Four charges Mr. Dawkins with engaging in a  
8 scheme to defraud the University of South Carolina and Oklahoma  
9 State University in connection with Dawkins' participation in a  
10 scheme to deprive the University of South Carolina and later  
11 Oklahoma State University of their respective intangible rights  
12 to the honest services of Lamont Evans by offering and paying  
13 bribes to Evans in exchange for his taking certain actions in  
14 violation of his duties to the respective universities. Count  
15 Five charges Dawkins with engaging in a scheme to deprive the  
16 University of Arizona to the intangible rights of the honest  
17 services of Emanuel Richardson by offering and paying bribes to  
18 Richardson in exchange for his taking certain actions in  
19 violation of his duties to the university.

20 I will explain to you in detail the law relating to  
21 honest services wire fraud in a moment, but I want to provide  
22 you now a brief explanation of the term "honest services" and  
23 how an employer can be deprived of an employee's honest  
24 services. When an employee of a business or organization takes  
25 an action on behalf of a person or entity at least in part



1 because of a concealed bribe, the employee has breached his  
2 duty to his employer. Thus, the employer is not receiving what  
3 it expects and is entitled to, namely, its right to its  
4 employee's honest and faithful services. I will discuss this  
5 concept in more detail in a few minutes.

6 The crime of honest services wire fraud has the  
7 following elements:

8 First, that there was a scheme or artifice to defraud  
9 the relevant university of its intangible right to its coach's  
10 honest services through bribery;

11 Second, that Dawkins knowingly and willfully  
12 participated in the scheme or artifice with knowledge of its  
13 fraudulent nature and with the specific intent to defraud; and

14 Third, that in execution of that scheme, Dawkins used  
15 or caused the use by others of interstate or foreign wires.

16 Some of the words and phrases you have just heard have  
17 specific meanings under the law. I will now go through each of  
18 these elements in more detail to help explain what each element  
19 means, including the words with specialized meaning. When  
20 you're applying the elements just listed, you must use the  
21 definitions of words I instruct you to use.

22 The first element the government must prove beyond a  
23 reasonable doubt is the existence of a scheme or artifice to  
24 defraud the relevant university of its intangible right to the  
25 honest services of its employee through bribery. As I

1 explained, with respect to Count Four, it is alleged that the  
2 University of South Carolina and later Oklahoma State  
3 University were deprived of their respective right to the  
4 honest services of their employee, Lamont Evans. With respect  
5 to Count Five, it is alleged that the University of Arizona was  
6 deprived of its right to the honest services of its employee,  
7 Emanuel Richardson.

8           Let me first explain what a scheme or artifice to  
9 defraud means. A scheme or artifice to defraud is any plan to  
10 accomplish some object by means of false or fraudulent  
11 statements, representations, or promises reasonably calculated  
12 to deceive persons of average prudence. A statement,  
13 representation, or document is false if it is untrue when made  
14 and was then known to be untrue by the person making it or  
15 causing it to be made. A statement, representation, or  
16 document is fraudulent if it was made falsely with the  
17 intention to deceive. The false or fraudulent statements,  
18 representations, or promises must regard a material fact. A  
19 fact is material if the fact is one which would reasonably be  
20 expected to be one of concern to a reasonable and prudent  
21 person in making a decision. Deceitful statements of  
22 half-truths or the concealment of facts and the expression of  
23 an opinion not honestly entertained may also constitute false  
24 or fraudulent statements.

25           The deception need not be premised upon spoken or

1 written words alone. The arrangement of the words or the  
2 circumstances in which they are used may convey the false and  
3 deceptive appearance. For example, the deceit may consist of  
4 the concealment of a bribe that the employee has solicited or  
5 received or the employee's implicit false representation to his  
6 employer that he has not solicited or obtained bribes in  
7 exchange for taking actions on behalf of the person or entity  
8 providing the bribes. If there is deception, the manner in  
9 which it is accomplished is irrelevant.

10 It does not matter whether any of the individuals or  
11 entities involved might have discovered the fraud had they  
12 probed it further. If you find that a scheme or artifice  
13 existed, it is irrelevant whether you believe that any  
14 individual or entity involved was careless, gullible, or even  
15 negligent.

16 Having just explained what a scheme or artifice to  
17 defraud is, let me now explain what it means to defraud a  
18 university of its intangible right to honest services. An  
19 employee owes a fiduciary duty, that is, a duty of honest and  
20 faithful services, to his employer. When an employee is bribed  
21 in exchange for actions taken in connection with his employment  
22 on behalf of the person paying him a bribe, he has breached his  
23 duty of honest and faithful service to his employer. The  
24 government alleges that there was a scheme to defraud the  
25 relevant university of the intangible rights of the honest

services of its employee -- Lamont Evans for the University of South Carolina and Oklahoma State University and Emanuel Richardson for the University of Arizona.

To prove that the particular scheme to defraud here existed, the government must prove that Mr. Dawkins paid bribes to the coaches in a *quid pro quo* exchange. *Quid pro quo* simply means "this for that." Here, to prove that a bribe occurred, the government must prove that the relevant men's basketball coach received a thing of value from or at the direction of Dawkins or that a third party received a thing of value at the direction of and for the benefit of that coach, in exchange for taking or promising to take an act in the course of that coach's employment at his university and in violation of his fiduciary duty to the university. This definition of bribery may differ from your understanding of bribery in Counts One and Two. Please ignore the definition of bribery in those counts with respect to Counts Four and Five.

As I previously explained, when an employee of a business takes an action on behalf of a person or entity at least in part because of a concealed bribe, the employee has breached his duty to his employer. Thus, the employer is not receiving what it expects and is entitled to, namely, its right to its employee's honest and faithful services.

A violation of an NCAA rule by itself is not a violation of the law. This case, however, is not about whether

violations of NCAA rules occurred. Rather, with respect to the honest services fraud counts, this case is about whether the universities that employed these coaches were deprived of their rights to their employee's honest services as a result of these employees, in exchange for bribe payments, taking actions that were prohibited under NCAA rules and the university's own policies. The fact that a coach's conduct violates the rules, policies, or codes of conduct of the NCAA or his employer does not necessarily mean that there was a scheme to defraud.

Now, evidence has been admitted relating to NCAA rules, as well as the rules and policies applicable to men's college basketball coaches at the relevant universities. The purpose of this trial is not to determine whether the NCAA rules are good or bad. During your deliberations, you must apply my instructions on the law to the facts that you find the government has proved beyond a reasonable doubt. Any views or opinions you might have about the wisdom or fairness of any NCAA rules have no bearing on this case whatsoever and should not be considered by you in any respect during your deliberations. You should disregard any arguments made by the lawyers about the wisdom or fairness of those rules.

To prove that bribery occurred, the government is not required to show that the relevant coach who received the payments performed, or promised to perform, an act solely because of the payment. It is no defense that the relevant

1 coach may have ultimately chosen to perform the same act even  
2 if he had not received or been promised a bribe. All that is  
3 required is that the coach performed, or promised to perform,  
4 the act in question at least in part because of a potential  
5 bribe.

6           Additionally, the government is not required to show  
7 that any acts that the relevant coach performed or promised to  
8 perform were contrary to the university's interest or caused or  
9 were intended to cause financial harm to the university.

10 Indeed, the actions the coach performed or promised to perform  
11 could have been harmless or even beneficial to the university.  
12 The university did not have to lose money or property on  
13 account of any actions the relevant coach performed or promised  
14 to perform. Rather, the only intended loss the government must  
15 prove is the relevant university's loss of its intangible right  
16 to its coach's honest services.

17           However, while the government need not prove that any  
18 actions taken by the coach were contrary to his university's  
19 interests, you are instructed that you may consider the  
20 existence or nonexistence of such evidence in determining  
21 whether the relevant coach took any action at least in part  
22 because of a potential bribe and not exclusively because it was  
23 at the direction or for the benefit of his university.

24           The second element that the government must prove  
25 beyond a reasonable doubt is that the defendant participated in

1 the scheme to defraud knowingly, willfully, and with specific  
2 intent to defraud.

3 To participate in a scheme means to engage in it by  
4 taking some affirmative step to help it succeed. It is not  
5 necessary for the government to establish that Dawkins  
6 originated the scheme to defraud. It is sufficient if you find  
7 that a scheme to defraud existed, even if someone else  
8 originated it, and that the defendant, while aware of the  
9 scheme's existence, knowingly and willfully participated in it  
10 with the intent to defraud. Nor is it required that Dawkins  
11 participated or had knowledge of all of the operations of the  
12 scheme. Further, the responsibility of the defendant is not  
13 governed by the extent of his participation. For example, it  
14 is not necessary that the defendant have participated in the  
15 alleged scheme from the beginning. A person who comes in at a  
16 later point with knowledge of the scheme's general operation,  
17 although not necessarily all of its details, and who  
18 intentionally acts in a way to further the unlawful goals  
19 becomes a participant in the scheme and is legally responsible  
20 for all that may have been done in the past in furtherance of  
21 the criminal objective and all that is done subsequently.

22 To act knowingly means to act intentionally and  
23 voluntarily and not because of ignorance, mistake, accident, or  
24 carelessness.

25 To act willfully means to act voluntarily and with a

1 wrongful purpose.

2           Specific intent to defraud means to act knowingly,  
3 willfully, and with the specific intent to deceive for the  
4 purpose of depriving the relevant university of its right to  
5 its coach's honest services. In addition, the government need  
6 not prove that the intent to defraud was the only intent of the  
7 defendant you are considering. A defendant may have the  
8 required intent to defraud even if the defendant was motivated  
9 by other lawful purposes as well.

10           The question of whether a person acted knowingly,  
11 willfully, and with intent to defraud is a question of fact for  
12 you to determine like any other fact question. This question  
13 involves one's state of mind. Direct proof of knowledge and  
14 fraudulent intent is almost never available. It would be a  
15 rare case where it could be shown that a person wrote or stated  
16 that as of a given time in the past he committed an act with  
17 fraudulent intent, and direct proof is not required. The  
18 ultimate facts of knowledge of criminal intent, though  
19 subjective, may be established by circumstantial evidence,  
20 based upon a person's outward manifestations, his words,  
21 conduct, and acts, and all the surrounding circumstances  
22 disclosed by the evidence and the rational or logical  
23 inferences that may be drawn from them.

24           The third and final element that the government must  
25 prove beyond a reasonable doubt is that Dawkins used, or caused



1 to be used, interstate wires (for example, phone calls, email  
2 communications, or text messages) in furtherance of the scheme  
3 to defraud the relevant universities.

4           The wire communications must be an interstate wire --  
5 that is, it must pass between two or more states. The use of  
6 the wire needed -- the use of the wire need not itself be a  
7 fraudulent representation. It must, however, further or assist  
8 in some way the carrying out of the scheme to defraud.

9           It is not necessary for the defendant to have been  
10 directly or personally involved in a wire communication, as  
11 long as the communication was reasonably foreseeable in the  
12 execution of the alleged scheme to defraud in which the  
13 defendant is accused of participating. In this regard, it is  
14 sufficient to establish this element of the crime if the  
15 evidence justifies a finding that the defendant caused the  
16 wires to be used by others. This does not mean that the  
17 defendant must specifically authorized others to make the  
18 communication. When one does an act with knowledge that the  
19 use of the wires will follow in the ordinary course of business  
20 or where such use of the wires reasonably can be foreseen, even  
21 though not actually intended, then he causes the wires to be  
22 used.

23           Finally, if you find that a wire communication was  
24 reasonably foreseeable and that the interstate wire  
25 communication charged in the indictment took place, then this

1 element is satisfied, even if it was not foreseeable that the  
2 wire communication would cross state lines.

3 (Continued on next page)

4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1           THE COURT: In Count Three, both Mr. Dawkins and Mr.  
2 Code are charged with conspiracy to commit honest services wire  
3 fraud.

4           In order to sustain its burden of proof with respect  
5 to the conspiracy charged in Count Three, the government must  
6 prove beyond a reasonable doubt the following two elements:

7           First, it must prove the existence of the conspiracy  
8 charged in Count Three of the indictment; that is, an agreement  
9 or understanding to commit honest services wire fraud, and;

10          Second, that the defendant you are considering  
11 knowingly and willfully became a member of, and joined in, the  
12 conspiracy.

13          I already explained the meaning of each of these two  
14 elements to you in instructing you as to Count One, which  
15 charges conspiracy to commit robbery. You will apply those  
16 instructions with respect to Count Three.

17          Unlike with respect to Count One, which charges  
18 conspiracy to commit bribery, with respect to Count Three,  
19 which charges conspiracy to commit honest services wire fraud,  
20 the government is not required to prove that an overt act was  
21 committed in furtherance of the conspiracy. The conspiracy  
22 charged in Count Three allegedly had one object, that was to  
23 commit honest services wire fraud. I already explained the  
24 elements of honest services wire fraud in instructing you as to  
25 the substantive offenses charged in Counts Four and Five. You

1 will apply those instructions when you consider whether the  
2 government has proven beyond a reasonable doubt that the  
3 conspiracy charged in Count Three existed. However, because  
4 Count Three charges conspiracy, the government does not need to  
5 prove that anyone committed the substantive crime of honest  
6 services wire fraud. It need prove beyond a reasonable doubt  
7 only that there was an agreement to do so.

8           You should also note that Count Three, the conspiracy  
9 count, covers a broad course of conduct and alleges that the  
10 defendant and others agreed to and did deprive multiple  
11 university employers of the honest services of their employees,  
12 including Evans's and Richardson's respective  
13 university-employers, as well as the universities that employed  
14 Anthony Bland, Preston Murphy, and Corey Barker, respectively.

15           The final count in the indictment, Count Six, charges  
16 both Mr. Dawkins and Mr. Code with conspiring to violate the  
17 Travel Act.

18           In order for you to find the defendant guilty of the  
19 conspiracy charged in Count Six, the government must prove  
20 beyond a reasonable doubt the following elements:

21           First, the existence of the conspiracy charged, that  
22 is, an agreement or understanding to violate certain laws of  
23 the United States;

24           Second, that the defendant you are considering  
25 knowingly and willfully became a member of the conspiracy

1 charged;

2 And third, that any of the conspirators -- not  
3 necessarily the defendant you are considering, but rather any  
4 member of the conspiracy -- knowingly committed at least one  
5 overt act in furtherance of the conspiracy during the life of  
6 the conspiracy.

7 I already explained the meaning of each of these three  
8 elements to you in instructing you as to Count One, which  
9 charges conspiracy to commit bribery. You will apply those  
10 instructions with respect to Count Six.

11 With respect to overt acts, Count Six of the  
12 indictment contains a section entitled "overt acts." These  
13 overt acts are examples of conduct alleged to have been  
14 undertaken by members of the conspiracy to promote the illegal  
15 objectives of the conspiracy. The overt acts alleged are as  
16 follows:

17 The government.

18 In furtherance of this conspiracy, and to effect the  
19 illegal objects thereof, the following overt acts, among  
20 others, were committed in the Southern District of New York and  
21 elsewhere:

22 A. On or about March 3, 2016, in South Carolina,  
23 Christian Dawkins, the defendant, Evans, Sood and CW-1, met  
24 during which meeting Evans, Dawkins, Sood, and CW1 discussed,  
25 in sum and substance, that Evans could directly influence

1 certain student-athletes that Evans coached at the University  
2 of South Carolina to retain the services of Dawkins, Sood and  
3 CW-1.

4 B. On or about June 20, 2017, a meeting that had been  
5 arranged for by Dawkins occurred in Manhattan, New York between  
6 Richardson, Sood, CW-1 and UC-1, among others, during which  
7 Richardson received a cash bribe of \$5,000.

8 C. On or about June 20, 2017, Merl Code, the  
9 defendant, Dawkins, Sood, CW-1, and UC-1, among others, met in  
10 New York, during which meeting Code received cash of \$5,000 and  
11 agreed to identify and make introductions to certain men's  
12 college basketball coaches that would be willing to accept  
13 bribe payments in exchange for steering certain of their  
14 student-athletes to retain the services of the company being  
15 formed by Dawkins, Sood and UC-1.

16 D. On or about July 29, 2017, a meeting arranged by  
17 Code occurred in Las Vegas, Nevada between Dawkins, Bland, CW-1  
18 and UC-1, among others, during which Bland discussed steering  
19 certain student-athletes under his control to retain the  
20 services of the company being formed by Dawkins, Sood, and  
21 UC-1, and after which Dawkins paid Bland a cash bribe.

22 E. On or about July 28, 2017, a meeting arranged by  
23 Code occurred in Las Vegas, Nevada between Dawkins, Coach-1,  
24 CW-1 and UC-1, among others, during which Coach-1 discussed  
25 steering student-athletes under his control to retain the

services of Dawkins's company and UC-1 paid Coach-1 a \$6,000 cash bribe.

F. On or about July 28, 2017, Dawkins, Coach-2, CW-1, and UC-1, among others, met in a hotel room in Las Vegas, Nevada to discuss Coach-2's steering of student-athletes under his control to retain the services of Dawkins's company. During the meeting, UC-1, paid Coach-2 a \$6,000 cash bribe.

As I previously instructed you with respect to Count One, you may find that overt acts were committed that were not alleged in the indictment. The only requirement is that one of the members of the conspiracy, again not necessarily the defendant, has taken some step or action in furtherance of the conspiracy during the life of that conspiracy.

For a conspiracy to exist, there must be an object of that conspiracy. Here, the object of the conspiracy is the violation of the Travel Act, which makes it a federal crime for anyone to travel in interstate commerce, or use a facility of interstate commerce for the purpose of carrying out certain unlawful activities. To establish a Travel Act violation, the government must establish the following elements:

First, that a coconspirator traveled across state lines or used or caused someone else to use an interstate facility;

Second, that this interstate travel or use of interstate facility be done with the intent to promote, manage

1 or establish, or carry on some unlawful activity, here,  
2 commercial bribery;

3 And third, that after this interstate travel, or use  
4 of an interstate facility, a conspirator perform or attempt to  
5 perform an act in furtherance of this same unlawful activity.

6 Some of the words and phrases you just heard have  
7 special meaning under the law. I will go through each of these  
8 three elements in more detail to help explain what each element  
9 means, including the words with specialized meaning. When you  
10 are applying the elements I just listed, you must use the  
11 definition of the words I instruct you to use.

12 The first element of a Travel Act violation is that a  
13 defendant or coconspirator travel across state lines or use or  
14 cause someone else to use an interstate facility. An  
15 interstate facility is any vehicle or instrument that crosses  
16 state lines in the course of commerce. For example, interstate  
17 transfers of money, e-mails, and telephone calls between  
18 states, and any use of the United States mail constitutes the  
19 use of an interstate facility. Interstate travel is simply  
20 travel between one state and any other state or between the  
21 United States and any foreign country.

22 The Travel Act does not require that a defendant  
23 himself use an interstate facility or travel interstate. The  
24 Travel Act also applies to a person who causes another person  
25 to use an interstate facility or travel interstate. The



1 government also does not have to prove that the defendant you  
2 are considering knew that the interstate travel or use of an  
3 interstate facility would occur. It is sufficient that the  
4 unlawful activity agreed to by the defendant are considering  
5 would cause the interstate travel or use of an interstate  
6 facility.

7 The second element of the Travel Act is that the use  
8 of an interstate facility or interstate travel was done with  
9 the intent to promote, manage, establish or carry out an  
10 unlawful activity -- here, commercial bribery, in violation of  
11 the laws of certain states, which I will describe for you  
12 momentarily.

13 It is not enough for the government to prove that the  
14 defendant you are considering was involved in some unlawful  
15 activity and also happened to travel between states or use an  
16 interstate facility or simply that the defendant you are  
17 considering used an interstate facility and accidentally  
18 furthered the unlawful activity. The defendant you are  
19 considering must have intended the advancement of the unlawful  
20 activity to result from the use of the interstate facility or  
21 from interstate travel.

22 The government does not have to prove that the  
23 furtherance of the unlawful activity was the sole purpose in  
24 travelling interstate or using an interstate facility. It is  
25 sufficient if the government proves that one of the reasons for

1 the travelling interstate or using an interstate facility was  
2 to further the unlawful activity. Thus, if you find that the  
3 defendant you are considering or a coconspirator traveled  
4 interstate or used interstate facilities with the intent to  
5 facilitate the unlawful activity, and you also find that the  
6 defendant you are considering or a coconspirator undertook the  
7 same travel or use of interstate facilities for some other  
8 reasons that have nothing to do with the unlawful activity, you  
9 may still find that the government has met its burden of proof  
10 on the second element of the offense.

11           You are thus being asked to look into the mind of the  
12 defendant you are considering and to ask what his or the  
13 coconspirator's purpose in agreeing to travel interstate or in  
14 using the interstate facilities was. You may determine the  
15 intent of the defendant you are considering from all the  
16 evidence that has been placed before you, including the  
17 statements of the defendant you are considering and his conduct  
18 before and after the travel or use of the facilities.

19           As I have instructed you, the government must prove  
20 that the defendant intended the interstate travel for the use  
21 of interstate facilities to facilitate or further the unlawful  
22 activity. The government does not, however, have to prove that  
23 the interstate travel or use of the interstate facilities was  
24 essential to the unlawful activity or fundamental to the  
25 unlawful scheme, or that the unlawful activity could not have

1 been accomplished without the interstate travel or the use of  
2 the interstate facilities.

3 As long as the government prove that is the defendant  
4 you are considering agreed to travel interstate or cause  
5 interstate travel or to use or cause the use of interstate  
6 facilities with the necessary unlawful intent, the government  
7 may rely on any interstate travel or use of interstate  
8 facilities by any coconspirator that helped accomplish the  
9 unlawful activity.

10 The government must prove that the defendant you are  
11 considering agreed to travel interstate or use an interstate  
12 facility with the intent to facilitate an activity which the  
13 defendant you are considering knew was illegal. The government  
14 does not have to prove that the defendant you are considering  
15 knew that the travel or use of interstate facilities was  
16 illegal. Thus, if the defendant you are considering agreed to  
17 travel interstate or to use the interstate facilities intending  
18 to facilitate a business deal, but he did not know that the  
19 deal was illegal or involved illegal activity, then you must  
20 find the defendant you are considering not guilty.

21 The defendants have been charged with conspiring, that  
22 is, agreed with others, to travel in interstate commerce or to  
23 use an interstate facility to facilitate the payment or receipt  
24 of bribes as charged in the indictment. The government must  
25 prove to you beyond a reasonable doubt that the activities that

1 the defendants you are considering agreed to facilitate were in  
2 fact, unlawful under any of the state laws at issue,  
3 specifically here the commercial bribery laws of South  
4 Carolina, Oklahoma, Arizona, and California. You need not find  
5 the defendant you are considering agreed to the use of an  
6 interstate facility or interstate travel with the intent to  
7 promote, manage, establish or carry on an activity that  
8 violated each of the state commercial bribery laws identified  
9 in the indictment; violation of at least one of these  
10 commercial bribery statutes is sufficient.

11 I will now describe for you the elements of each of  
12 the state commercial bribery statutes that are referenced in  
13 the indictment.

14 The South Carolina Commercial Bribery Statute.

15 Under South Carolina law, "any agent, employee or  
16 servant who corruptly requests or accepts a gift or gratuity or  
17 promises to make a gift or do an act beneficial to himself  
18 under an agreement or with an understanding that he shall act  
19 in any particular manner in relation to his principal's,  
20 employer's, or master's business" is guilty of a crime. The  
21 elements of this offense as applied in the case are:

22 First, that the relevant men's college basketball  
23 coach -- here, Lamont Evans -- was an agent of the University  
24 of South Carolina during the time period when he requested or  
25 accepted a gift or gratuity;

1           Second, that at the time that he requested or accepted  
2 a gift or gratuity, he did so with corrupt intent. I have  
3 previously defined corrupt intent in explaining Count Two, and  
4 that definition applies here.

5           The Arizona Commercial Bribery Statute.

6           Under Arizona law, "a person commits commercial  
7 bribery, if he, while employed by an employer, accepts any  
8 benefit from another person, corruptly intending that such  
9 benefit will influence his conduct in relation to the  
10 employer's commercial affairs." The elements of this offense  
11 as applied to this case are:

12           First, that the relevant men's basketball coach --  
13 here, Emmanuel Richardson -- acted with corrupt intent. Under  
14 Arizona law, corrupt in the context of the charge of bribery  
15 means being dishonest and being open to bribery or using a  
16 position of trust for dishonest gain.

17           Second, while acting as an employee of the University  
18 of Arizona, Richardson accepted any benefit from another person  
19 so that such benefit would influence Richardson's conduct in  
20 relation to the University of Arizona's commercial affairs; and

21           Third, the conduct of Richardson caused economic loss  
22 to the University of Arizona.

23           The third element of the Travel Act is that the  
24 defendant you are considering conspired to engage in interstate  
25 travel or use of an interstate facility that was followed by a

1 conspirator's performance or attempted performance of an act in  
2 furtherance of an unlawful activity. This act need not itself  
3 be unlawful. However, this act must come after the interstate  
4 travel or use of an interstate facility. Any act that would  
5 happen before the interstate travel or use of interstate  
6 facility cannot satisfy this element.

7 Liability for Acts and Declaration of Coconspirators.

8 With respect to the conspiracies charged in Counts  
9 One, Three and Six of the indictment, which are the conspiracy  
10 charges, you will recall that I have admitted at this trial  
11 evidence of the acts and statements of other individuals who  
12 were not present because such acts were committed and such  
13 statements were made by a person who, the government claims,  
14 was also a confederate or coconspirator of the defendants.

15 The reason for allowing this evidence to be received  
16 against the defendants has to do in part with the nature of the  
17 crime of conspiracy. As I have said, a conspiracy is often  
18 referred to as a partnership in crime: As in other types of  
19 partnership, when people enter into a conspiracy to accomplish  
20 an unlawful end, each and every member becomes an agent for the  
21 other conspirators in carrying out the conspiracy.

22 Accordingly, the reasonably foreseeable acts,  
23 declarations, statements and omissions of any member of the  
24 conspiracy and in furtherance of the common purpose of the  
25 conspiracy are deemed, under the law, to be acts of all of the

members, and all of the members are responsible for such acts, declarations, statements and omissions.

If you find, beyond a reasonable doubt, that the defendant whose guilt you are considering was a member of any of the conspiracies charged in Count One, Three or Six of the indictment, then any acts done or statements made in furtherance of that conspiracy by persons also found by you to have been members of the conspiracy, may be considered against that defendant. This is so, even if such acts were done and statements were made in that defendant's absence and without his knowledge.

However, before you may consider the statements or acts of a coconspirator in deciding the issue of defendant's guilt, you must first determine that the acts and statements were made during the existence and in furtherance of the unlawful scheme. If the acts were done or the statements made by someone whom you do not find to have been a member of the conspiracy or if they were not done or said in furtherance of the conspiracy, they may be considered by you as evidence only against the member who did or said them.

With respect to Count Two, which charges Dawkins and Code with the substantive offense of offering bribes or gratuities, and Counts Four and Five, which charge solely Dawkins with the substantive offense of honest services wire fraud, these counts also charge the defendant you are

1 considering with having aided and abetted and/or willfully  
2 caused another person to commit each of those crimes.

3           If you all agree that the government has proved that  
4 the defendant you are considering guilty beyond a reasonable  
5 doubt on any of the substantive counts with which he is charged  
6 that I just described, then you need not consider these  
7 alternate theories of liability as to that specific count.  
8 However, if you do not find a defendant guilty beyond a  
9 reasonable doubt on any of the substantive counts that I just  
10 described, you then will consider whether the government has  
11 proven that defendant guilty under the alternative theories of  
12 aiding and abetting and willfully causing a crime. I will take  
13 each of those concepts, aiding and abetting and willfully  
14 causing a crime, in turn.

15           Aiding and abetting.

16           It is unlawful for a person to aid, abet, counsel,  
17 command, induce or procure someone else to commit an offense.  
18 A person who does that is just as guilty of the offense as  
19 someone who actually commits it. Accordingly, if a defendant  
20 is charged with a substantive count in the indictment, you may  
21 find that defendant guilty on that count if you find that the  
22 government has proved beyond a reasonable doubt that another  
23 person actually committed the crime and that the defendant you  
24 are considering aided, abetted, counseled, commanded, induced  
25 or procured the commission of that crime.



1 In order to convict the defendant as an aider and  
2 abettor, the government must prove beyond a reasonable doubt  
3 two elements:

4 First, it must prove that a person other than the  
5 defendant you are considering actually committed the crime  
6 charged. Obviously, no one can be convicted of aiding and  
7 abetting the criminal acts of someone else if no crime was  
8 committed by the other person in the first place. Accordingly,  
9 if the government has not proved beyond a reasonable doubt that  
10 a person other than the defendant you are considering committed  
11 the substantive crimes charged in the indictment, then you need  
12 not consider the second element under the theory of aiding and  
13 abetting. But if you do find that a crime was committed by  
14 someone other than the defendant you are considering, then you  
15 must consider whether the defendant you are considering aided  
16 or abetted the commission of that crime.

17 Second, in order to convict on an aiding and abetting  
18 theory, the government must prove that the defendant you are  
19 considering willfully and knowingly associated himself in some  
20 way with the crime, and that he willfully and knowingly engaged  
21 in some affirmative conduct for the specific purpose of  
22 bringing about that crime. I previously explained the meaning  
23 of the term, willfully, in instructing you as to Counts Four  
24 and Five, and that instruction applies with equal force here.

25 The mere presence of the defendant you are considering

1 in the place where a crime is being committed, even coupled  
2 with knowledge that a crime is being committed, is not enough  
3 to make that defendant an aider and abettor. Similarly, a  
4 defendant's acquiescence in the criminal conduct of others,  
5 even with guilty knowledge, is not enough to establish aiding  
6 and abetting. An aider and abettor must know that a crime is  
7 being committed and act in a way that is intended to bring  
8 about the success of the criminal venture.

9 To determine whether the defendant aided and abetted  
10 the commission of the crime, ask yourself these questions:

11 Did the defendant you are considering participate in  
12 the crime charged as something that the defendant wished to  
13 bring about?

14 Did he knowingly associate himself with the criminal  
15 venture?

16 Did he seek by his actions to make the criminal  
17 venture succeed?

18 If the defendant did, then he is an aider and abettor  
19 and, therefore, guilty of the offense. If he did not, then the  
20 defendant is not an aider and abettor.

21 Alternatively, the government may meet its burden by  
22 establishing that the defendant willfully caused another to  
23 commit a crime. That law provides that whoever willfully  
24 causes an act to be done, if directly performed by him, would  
25 be a criminal offense, is punishable as a principle.

1           What that means is that, even if the defendant you are  
2           considering did not commit the particular crime that is  
3           charged, the government may meet its burden of proof by:

4           (1) proving that another person actually committed the  
5           offense with which the defendant is charged; and

6           (2) providing that the defendant willfully caused that  
7           person to commit that crime.

8           In this context, the term willfully means  
9           intentionally, rather than through mistake, mere negligence or  
10          for some other reason.

11          Thus, if you are persuaded beyond a reasonable doubt  
12          that the defendant willfully caused another to commit the  
13          particular substantive crime charged, then he is guilty of the  
14          crime charged, just as if the defendant himself had actually  
15          committed it.

16          There is one critical difference between aiding and  
17          abetting and willfully causing another to commit a crime. With  
18          respect to willful causation, the government need not prove  
19          that the defendant acted through a guilty person. Rather, the  
20          defendant can be found guilty even if he acted through someone  
21          who has no knowledge of the crimes charged in the indictment.

22          I told you earlier that the defendants, in various  
23          respects, must have acted knowingly in order to be convicted.  
24          In determining whether the defendants acted knowingly with  
25          respect to the substantive crimes or the objectives of the

1 conspiracy, you may consider whether the defendants  
2 deliberately closed their eyes to what otherwise would have  
3 been obvious. That is what the phrase "conscious avoidance"  
4 refers to. As I told you before, acts done knowingly must be a  
5 product of a person's conscious intention. They cannot be the  
6 result of carelessness, negligence or foolishness. But a  
7 person may not willfully and intentionally remain ignorant of a  
8 fact that is material and important to his or her conduct in  
9 order to escape the consequences of criminal law. We refer to  
10 this notion of intentionally blinding yourself to what is  
11 staring you in the face as conscious avoidance.

12           An argument by the government of conscious avoidance  
13 is not a substitute for proof of knowledge; it is simply  
14 another factor that you, the jury, may consider in deciding  
15 what a defendant knew. Thus, if you find beyond a reasonable  
16 doubt that the defendants were aware that there was a high  
17 probability that a fact was so, but that the defendants  
18 deliberately and consciously avoided confirming this fact, such  
19 as by purposely closing their eyes to it or intentionally  
20 failing to investigate it, then you may treat this deliberate  
21 avoidance of knowledge as the equivalent of knowledge.

22           With respect to the conspiracy counts, you must also  
23 keep in mind that there is an important difference between  
24 intentionally participating in the conspiracy, on the one hand,  
25 and knowing a specific object or objects of the conspiracy, on

1 the other. You may consider conscious avoidance in deciding  
2 whether the defendants knew the objective or objectives of a  
3 conspiracy, that is, whether the defendants reasonably believed  
4 that there was a high probability that a goal of the conspiracy  
5 was to commit the crimes charged as objects of that conspiracy  
6 and deliberately avoided confirming that fact but participated  
7 in the conspiracy anyway.

8 But conscious avoidance cannot be used as a substitute  
9 for finding that the defendants intentionally joined the  
10 conspiracy in the first place. It is logically impossible for  
11 a defendant to intend and agree to join a conspiracy if he does  
12 not know it exists. And that is the distinction I am drawing.

13 In sum, if you find that the defendant you are  
14 considering believed that there was high probability that a  
15 fact was so, and that the defendant deliberately and  
16 consciously avoided learning the truth of that fact, you may  
17 find the defendant acted knowingly with respect to that fact.  
18 However, if you find that the defendant actually believed that  
19 the fact was not so, then you may not find that he acted  
20 knowingly with respect to that fact. You must judge from all  
21 the circumstances and all the proof whether the government did  
22 or did not satisfy its burden of proof beyond a reasonable  
23 doubt.

24 Venue. The federal law provides rules that govern  
25 here, that is, in what district a criminal prosecution may be

1 brought by the government. These are known as venue rules.

2 In addition, all of the elements that I've just  
3 described, you must also decide whether any act in furtherance  
4 of each of the charged crimes occurred within the Southern  
5 District of New York, which includes all of Manhattan, the  
6 Bronx, and Westchester, Rockland, Putnam, Dutchess, Orange, and  
7 Sullivan Counties. This means that, with regard to each count,  
8 you must decide whether the crime charged in a particular count  
9 or any act committed to further or promote the crime, occurred  
10 within the Southern District of New York.

11 I note that on the issue of venue and on this issue  
12 alone, the government need not prove its position beyond a  
13 reasonable doubt. It is sufficient if the government proves by  
14 a mere preponderance of the evidence. To prove something by  
15 preponderance of the evidence means to prove that it is more  
16 likely true than not true. It is determined by considering all  
17 of the evidence and deciding which evidence is more convincing.  
18 Thus, the government has satisfied its venue obligations if you  
19 conclude that it is more likely than not that the crime  
20 charged, or any act in furtherance of the crime you are  
21 considering for a particular count, occurred in the Southern  
22 District of New York.

23 If you find that the government has failed to prove  
24 this venue requirement by a preponderance of the evidence with  
25 respect to any of the charges in the indictment, then you must

1 acquit the defendant of that charge.

2 Dual Intent No Defense.

3 During this trial the defendants have contended that  
4 their actions were motivated by considerations that were not  
5 unlawful. However, even if true, it is not a defense to any  
6 count that the defendant may have been motivated by both proper  
7 and improper motives. A defendant may be found to have the  
8 intent even if he possesses a dual intent, that is, an unlawful  
9 intent, and also partly a proper or neutral intent.

10 Proof of motive is not a necessary element of any of  
11 the crimes with which the defendants are charged. Proof of  
12 motive does not establish guilt, nor does the lack of proof of  
13 motive establish that the defendant is not guilty. If the  
14 guilt of a defendant is shown beyond a reasonable doubt, it is  
15 immaterial what the defendant's motive for the crime or crimes  
16 may be or whether the defendant's motives were shown at all.  
17 The presence or absence of motive is, however, a circumstance  
18 which you may consider as bearing on the intent of the  
19 defendant.

20 Particular investigative Techniques.

21 You have heard reference in the arguments of defense  
22 counsel in this case to the fact that certain investigative  
23 techniques were or were not used by law enforcement  
24 authorities. There is no legal requirement that law  
25 enforcement agents investigate crimes in a particular way or

1 that the government prove its case through any particular  
2 means. While you are to carefully consider the evidence  
3 presented, you need not speculate as to why law enforcement  
4 used the techniques that they did, or why they did not use  
5 other techniques. The government is not on trial, and law  
6 enforcement techniques are not your concern. Your concern is  
7 to determine whether or not, based on the evidence or lack of  
8 evidence, the guilt of the defendants has been proven beyond a  
9 reasonable doubt.

10 Use Of Evidence Obtained Pursuant To Search And  
11 Seizures.

12 You have heard testimony about evidence seized in  
13 connection with certain searches or seizures conducted by law  
14 enforcement officers, and in particular, of e-mail evidence  
15 obtained pursuant to court-approved search warrants. You've  
16 also heard recorded calls and conversations that were offered  
17 into evidence during this trial. I instruct you that all of  
18 the evidence in this case, including evidence obtained pursuant  
19 to searches and the recorded meetings and conversations played  
20 during the trial, was lawfully obtained, and that no one's  
21 rights were violated, and that the use of this evidence is  
22 entirely lawful. Whether you approve or disapprove of the  
23 recordings of calls or conversations, or the uses of searches  
24 to obtain evidence should not enter into your deliberations,  
25 because I instruct you that the use of this evidence is



1 entirely lawful. Therefore, you must give this evidence your  
2 full consideration, along with all the other evidence in the  
3 case, as you determine whether the government has proved each  
4 defendant's guilt beyond a reasonable doubt.

5 As I instructed you earlier in connection with the  
6 recordings, the statements of the undercover law enforcement  
7 agent were admitted not for the truth, but rather to put in  
8 context statements made by the defendants and by  
9 coconspirators.

10 Guilty Plea By Government Witness.

11 You have heard testimony from a government witness who  
12 pled guilty to charges arising out of the same facts in this  
13 case. You are instructed that you are to draw no conclusions  
14 or inferences of any kind about the guilt of these defendants  
15 on trial from the fact that a prosecution witness pled guilty  
16 to similar charges. That witness's decision to plead guilty  
17 was a personal decision about his own guilt. It may not be  
18 used by you in any way as evidence against or unfavorable to  
19 defendants on trial here.

20 Audio Recordings And Transcripts.

21 In connection with the recordings that you have heard,  
22 you were given transcripts of the conversations to assist you.  
23 I told you then, and I remind you now, that transcripts are not  
24 evidence. It is the recordings that are evidence. The  
25 transcripts were provided as an aid to you while you listened

1 to the tapes. It is for you to decide whether the transcripts  
2 correctly represent the conversation as they are heard on the  
3 tapes you have listened to. If you perceive any difference  
4 between the recording and the transcript, it is the recording  
5 that controls.

6 In this case you have heard evidence in the form of  
7 stipulations of testimony. A stipulation of testimony is an  
8 agreement between the parties that, if called as a witness, the  
9 person would have given certain testimony. You must accept as  
10 true the fact that the witness would have given that testimony.  
11 However, it is for you to determine the effect to be given to  
12 that testimony.

13 In this case, you have also heard evidence in the form  
14 of stipulations of fact. A stipulation of fact is an agreement  
15 between the parties that a certain fact is true. You must  
16 regard such agreed-upon facts as true.

17 We have, among the exhibits received in evidence, some  
18 documents that are redacted. Redacted means that part of the  
19 document or recording was taken out. You are to concern  
20 yourself only with the part of the item that has been admitted  
21 into evidence. You should not consider any possible reason why  
22 the other part of it has been deleted.

23 Persons Not On Trial. You may not draw any inference,  
24 favorable or unfavorable, towards the government or the  
25 defendants, from the fact that any person in addition to the

1 defendants is not on trial here. You also may not speculate in  
2 any way as to the reason or reasons why other persons are not  
3 on trial. Those matters are wholly outside your concern that  
4 have no bearing on your function as jurors.

5           Uncalled Witnesses.

6           There are several persons whose names you may have  
7 heard during the course of the trial but did not appear to  
8 testify. I instruct you that each party has an equal  
9 opportunity, or lack of opportunity, to call any of these  
10 witnesses. Therefore, you should not draw any inferences or  
11 reach any conclusions as to what they would have testified to  
12 had they been called. Their absence should not affect your  
13 judgment in any way. You should, however, remember my  
14 instruction that the law does not impose on a defendant in a  
15 criminal case, the burden or duty of calling any witness or  
16 producing any testimony.

17           The defendant in a criminal case never has a duty to  
18 testify or to come forward with any evidence. This is because,  
19 as I have told you, the burden of proof beyond a reasonable  
20 doubt remains on the government at all times, and the defendant  
21 is presumed innocent. In this case, a defendant did testify  
22 and he was subject to cross-examination like any other witness.  
23 You should examine and evaluate the defendant's testimony just  
24 as you would the testimony of any witness.

25           One defendant did not testify in this case. Under our

1 constitution, a defendant has no obligation to testify or to  
2 present any evidence, because it is the government's burden to  
3 prove the defendant guilty beyond a reasonable doubt. That  
4 burden remains with the government throughout the entire trial  
5 and never shifts to the defendant. A defendant is never  
6 required to prove that he is innocent. You may not attach any  
7 significance to the fact that a particular defendant did not  
8 testify. No adverse inference against him may be drawn by you  
9 because he did not take the witness stand. You may not  
10 consider this against the defendant in any way in your  
11 deliberations in the jury room.

12 Now to the evaluation of evidence.

13 What Is And Is Not Evidence.

14 You are to consider only the evidence in the case.  
15 The evidence in this case is the sworn testimony of the  
16 witnesses, the exhibits received in evidence, and stipulations  
17 to which the parties have agreed. Anything that you may have  
18 seen or heard about this case outside the courtroom is not  
19 evidence and must be entirely disregarded. Exhibits which have  
20 been marked for identification but not received into evidence,  
21 may not be considered by you as evidence. Only those exhibits  
22 received into evidence may be considered as evidence. It is  
23 for you alone to decide the weight, if any, to be given to the  
24 testimony and stipulations you have heard and the exhibits you  
25 have seen. Testimony that I have excluded or stricken is not

1 evidence and may not be considered by you in rendering your  
2 verdict.

3           You are not to consider as evidence questions asked by  
4 the lawyers. It is the witnesses' answers that are evidence,  
5 not the questions. Arguments by the attorneys are not evidence  
6 because the attorneys are not witnesses. What they have said  
7 to you in their opening statements and what they will say to  
8 you in their summations is intended to help you understand the  
9 evidence to reach your verdict. If, however, your reflection  
10 of the evidence differs from the statements made by the  
11 advocates in their opening statements or summations, it is your  
12 recollection that controls.

13           Finally, any statements or rulings that I may have  
14 made do not constitute evidence. Because you are the sole and  
15 exclusive judges of the facts, I do not mean to indicate any  
16 opinion as to what the facts are or what the verdict should be.  
17 The rulings I've made during the trial are not any indication  
18 of my views. Also, you should not draw any inference from the  
19 fact that I may on occasion have asked certain questions of  
20 witnesses. These questions were intended only to clarify or  
21 expedite, and are not any indication of my view of the  
22 evidence. In short, if anything I have said or done seemed to  
23 you to indicate an opinion related to any matter you need to  
24 consider, you must disregard it.

25           Now, there are two types of evidence that you may

1 properly use in reaching your verdict. One type of evidence is  
2 called direct evidence. One kind of direct evidence is a  
3 witness's testimony about something he knows by virtue of his  
4 or her own senses, something the witness has seen, felt,  
5 touched or heard. Direct evidence may also be in the form of  
6 an exhibit.

7         The other type of evidence is circumstantial evidence.  
8 Circumstantial evidence is evidence that tends to prove one  
9 fact indirectly by proof of other facts. Here is a simple  
10 example of circumstantial evidence:

11         Assume that we came to the courthouse this morning,  
12 the sun was shining and it was a nice day. Assume that the  
13 courtroom blinds are drawn and you cannot look outside. As  
14 you're sitting here, someone walks in with an umbrella that is  
15 dripping wet. Somebody else then walks in with a raincoat that  
16 is also dripping wet. You cannot look outside the courtroom  
17 and you cannot see whether or not it is raining, so you have no  
18 direct evidence of that fact. But on the combination of the  
19 facts that I've asked you to assume, it would be reasonable and  
20 logical for you to conclude that, between the time you arrived  
21 at the courthouse and the time that these people walked in, it  
22 had started to rain. That is all there is to circumstantial  
23 evidence. You infer on the basis of reason and experience and  
24 common sense from an established fact that existed or  
25 nonexistence of some other fact.

1           Many facts such as a person's state of mind can rarely  
2 be proved by direct evidence. Circumstantial evidence is no  
3 less value than direct evidence. You are to consider both  
4 direct and circumstantial evidence. The law makes no  
5 distinction between the two, but simply requires that before  
6 convicting a defendant, you, the jury, must be satisfied of the  
7 defendant's guilt beyond a reasonable doubt from all of the  
8 evidence in the case.

9           I have used the term "inferred," and the lawyers in  
10 their arguments may ask you to draw certain inferences. When  
11 you draw an inference, you conclude from one or more  
12 established fact that another fact exists, and you do so on the  
13 basis of your reason, experience and common sense. The process  
14 of drawing inferences from facts in evidence is not a matter of  
15 guess work, suspicion or speculation. An inference is a  
16 reasoned, logical deduction or conclusion that you, the jury,  
17 may draw -- but are not required to draw -- from the facts  
18 which have been established by either direct or circumstantial  
19 evidence.

20           In considering inferences, you should use your common  
21 sense and draw from the facts which you find to be proven  
22 whatever reasonable inferences you find to be justified in  
23 light of your experience.

24           Now, for the important subject of evaluating  
25 testimony. How do you evaluate the credibility or

1 believability of the witnesses? The answer is that you use  
2 your plain common sense. There is no magic formula by you  
3 which you can evaluate testimony. You should use the same  
4 tests of truthfulness that you would use in determining matters  
5 of importance in your everyday lives. You should ask  
6 yourselves:

7 Did the witness impress you as honest, open and  
8 candid, or was the witness evasive and edgy, as if hiding  
9 something?

10 How did he or she appear -- that is, his or her  
11 bearing, behavior, manner, and appearance while testifying?

12 How responsive was the witness to the questions asked  
13 on direct examination and on cross-examination?

14 You should consider the opportunity the witness had to  
15 see, hear, and know about the things about which he or she  
16 testified; the accuracy of his or her memory; his or her candor  
17 or lack of candor; his or her intelligence; the reasonableness  
18 and probability of his or her testimony; its consistency or  
19 lack of consistency with other credible evidence; and its  
20 corroboration by other credible evidence.

21 In short, in deciding credibility, you should size up  
22 the witness in light of his or her demeanor, the explanations  
23 given, and all of the other evidence in the case. Always  
24 remember to use your common sense, good judgment and life  
25 experience.



1           Few people recall every detail in the same way. A  
2 witness may be inaccurate, contradictory and untruthful in some  
3 respects and yet entirely believable and truthful in other  
4 respects. It is for you to determine whether such  
5 inconsistencies are significant or inconsequential.

6           If you find that a witness is intentionally telling a  
7 falsehood, that is always a matter of importance you should  
8 weigh carefully. If you find that a witness has willfully  
9 testified falsely as to any material fact, that is, as to an  
10 important matter, the law permits you to disregard completely  
11 the entire testimony of that witness upon the principle that  
12 one who testifies falsely about one material fact is likely to  
13 testify falsely about everything. You are not required,  
14 however, to consider such a witness as totally unbelievable.  
15 You may accept his or her testimony that you deem true and  
16 disregard what is feel is false.

17           You are not required to accept testimony, even though  
18 the testimony is uncontradicted and the witness's testimony is  
19 not challenged. You may decide because of the witness's  
20 bearing or demeanor, or because of the inherent probability of  
21 the testimony, or for other reasons sufficient to yourselves  
22 that the testimony is not worthy of belief. On the other hand,  
23 you may find because of a witness's bearing and demeanor and  
24 based upon consideration of all the other evidence in the case,  
25 that the witness is truthful.

1 By the process which I have just a described to you,  
2 you, as the sole judges of the facts, decide which of the  
3 witnesses you will believe, what portions of their testimony  
4 you accept, and what weight you will give to it.

5 In deciding whether to believe a witness, you should  
6 also specifically note any evidence of bias, hostility or  
7 affection that the witness may have towards one of the parties.  
8 Likewise, you should consider evidence of any other interest or  
9 motive that the witness may have in cooperating or not  
10 cooperating with a particular party. If you find any such  
11 bias, hostility, affection, interest or motive, you must then  
12 consider whether or not it affected or colored the witness's  
13 testimony.

14 You should also take into account any evidence that a  
15 witness may benefit or suffer in some way from the outcome of a  
16 case. Such interest in the outcome may create a motive to  
17 testify falsely and may sway a witness to testify in a way that  
18 advances his or her own interests. Therefore, if you find that  
19 any witness whose testimony you are considering may have an  
20 interest in the outcome of this trial, then you should bear  
21 that factor in mind when evaluating the credibility of his or  
22 her testimony, and accept it with great care.

23 Keep in mind, though, that it does not automatically  
24 follow that the testimony is to be disbelieved. There are many  
25 people who, no matter what their interest in the outcome of the

1 case may be, would not testify falsely. It is for you to  
2 decide, based on your own perceptions and common sense, to what  
3 extent, if at all, the witness's bias or interest has affected  
4 his or her testimony. You are not required to disbelieve an  
5 interested witness; you may accept as much as his or her  
6 testimony as you deem reliable and reject as much as you deem  
7 unworthy of acceptance.

8 Accomplice Or Cooperating Witness Testimony.

9 You have heard witnesses who testified that they are  
10 actually involved in the crimes charged in the indictment.

11 Experience will tell you that the government must  
12 frequently rely on the testimony of witnesses who admit  
13 participating in the alleged crimes at issue. The government  
14 must take its witnesses as it finds them and frequently must  
15 use such testimony in criminal prosecutions because they would  
16 otherwise be difficult or impossible to detect and prosecute  
17 wrongdoers.

18 The testimony of such accomplices and cooperating  
19 witnesses is properly considered by the jury. If accomplices  
20 cannot be used, there would be many cases in which there was a  
21 real guilt and conviction should be had, but in which  
22 convictions would be obtainable. For these very reasons, the  
23 law allows the use of accomplice testimony. Indeed, it is the  
24 law in federal courts that the testimony of an accomplice may  
25 be enough in itself for a conviction, if the jury believes that

1 the testimony establishes guilt beyond a reasonable doubt.

2 Because of the possible interest an accomplice may  
3 have in testifying, the accomplice's testimony should be  
4 scrutinized with special care and caution. The fact that a  
5 witness is an accomplice may be considered by you as bearing  
6 upon his credibility. However, it does not follow that simply  
7 because a person has admitted to participating in one or more  
8 crimes, that he or she is incapable of giving a truthful  
9 version of what happened.

10 Like the testimony of any other witness, accomplice  
11 witness's testimony should be given such weight as it deserves  
12 in light of the facts and circumstances before you, taking into  
13 account the witness's demeanor, candor, the strength and  
14 accuracy of a witness's recollection, his or her background and  
15 the extent to which his or her testimony is or is not  
16 corroborated by other evidence. You may consider whether  
17 accomplice witnesses, like any other witnesses called in this  
18 case, have an interest in the outcome of the case, and if so,  
19 whether it has affected their testimony.

20 You heard testimony from witnesses who have agreements  
21 with the government. I must caution you that it is of no  
22 concern of yours why the government made an agreement with a  
23 witness. Your sole concern is whether a witness has given  
24 truthful testimony here in this courtroom before you.

25 In evaluating the testimony of accomplice witnesses,

1 you should ask yourselves whether the accomplices would benefit  
2 more by lying or by telling the truth. Was his or her  
3 testimony made up in a way because he or she believed or hoped  
4 that he or she would somehow receive favorable treatment by  
5 testifying falsely? Or, did he or she believe that his or her  
6 interests would be served best served by testifying truthfully?  
7 If you believe that the witness was motivated by hopes of  
8 personal gain, was the motivation one which would cause him or  
9 her to lie, or was it one which would cause him or her to tell  
10 the truth? Did this color his or her testimony?

11 If you find that the testimony was false, you should  
12 reject it. However, if, after cautious and careful examination  
13 of the accomplice witness's testimony and demeanor upon the  
14 witness stand, you are satisfied that the witness told the  
15 truth, you should accept it as credible and act upon it  
16 accordingly.

17 You have heard evidence during the trial that  
18 witnesses have discussed the facts of the case and their  
19 testimony with lawyers before the witness appeared in court.  
20 Although, you may consider this fact when you are evaluating  
21 the witness's credibility, you should keep in mind that there  
22 is nothing either unusual or improper about a witness meeting  
23 with lawyers before testifying so that the witness can be made  
24 aware of the subjects he will be questioned about, focus on  
25 those subjects, and have the opportunity to view relevant

1 exhibits before being questioned about them. Such consultation  
2 may help save your time and the Court's time. In fact, it  
3 would be unusual for a lawyer to call a witness without having  
4 had such a consultation beforehand.

5 Again, the weight you give to the fact or the nature  
6 of the witness's preparation for his or her testimony, and what  
7 inferences you draw from such preparation are matters  
8 completely within your discretion.

9 Now, you've heard testimony that a defendant made a  
10 statement in which he claimed that his conduct was consistent  
11 with innocence and not with guilt. The government claims that  
12 these statements in which the defendant attempted to exculpate  
13 himself are false. If you find that the defendant gave a false  
14 statement in order to divert suspicion from himself, you may  
15 infer that the defendant believed that he was guilty. You may  
16 not, however, infer on the basis of this alone that the  
17 defendant is, in fact, guilty of the crimes for which he is  
18 charged. Whether or not the evidence as to a defendant's  
19 statements shows that the defendant believed he was guilty and  
20 significance, if any, to be attached to any such evidence, are  
21 matters for you, the jury, to decide.

22 Under your oath as jurors, you are to evaluate the  
23 evidence calmly and effectively, without sympathy or prejudice.  
24 You are to be completely fair and impartial. And you are to be  
25 guided solely by the evidence in this case, and the crucial

1 bottom-line question that you must ask yourselves as you sift  
2 through the evidence is:

3           Has the government proven the elements of the crimes  
4 charged beyond a reasonable doubt.

5           It would be improper for you to consider, in deciding  
6 the facts of the case, any personal feelings you may have about  
7 the race, religion, national origin, sex, disability, or age of  
8 any party or witness, or any other such irrelevant factor. It  
9 would be equally improper for you to allow any feelings you  
10 might have about the nature of the crimes charged to interfere  
11 with your decision-making process. All parties are entitled to  
12 the same fair trial. They stand equal before the law, and are  
13 to be dealt with as equals in this court. If you let fear or  
14 prejudice or bias or sympathy interfere with your thinking,  
15 then there is a risk that you will not arrive at a true and  
16 just verdict.

17           If you have a reasonable doubt as to the defendant's  
18 guilt with respect to a particular count, you should not  
19 hesitate to render a verdict of acquittal on that charge. But,  
20 on the other hand, if you find that the government has met its  
21 burden of proving the defendants' guilt beyond a reasonable  
22 doubt, you should not hesitate to render a verdict of guilty on  
23 that charge.

24           In determining whether the government has proven the  
25 charges beyond a reasonable doubt, you should not consider the

1 question of possible punishment in the event that you were to  
2 find the defendant guilty as charged. The duty of imposing a  
3 sentence rests exclusively upon the Court. Your function is to  
4 weigh the evidence in the case and to determine whether or not  
5 the defendant is guilty beyond a reasonable doubt, solely upon  
6 the basis of such evidence.

7 Therefore, I instruct you that you cannot allow  
8 consideration of the punishment which may be imposed upon a  
9 defendant, if he is convicted, to influence your verdict in any  
10 way, or enter into your deliberations.

11 Ladies and gentlemen, the last portion of this  
12 concerns deliberations. I will give that portion of the  
13 instructions after the parties have given their summations.

14 Okay?

15 So, before we break, let me talk to the attorneys at  
16 sidebar.

17 (Continued on next page)



(At side bar)

THE COURT: Was there any misstatement or any objection to the charges?

MR. HANEY: None, your Honor.

MR. CHANEY: The only objection that Defense Code would like to make, is that in the Court's reading of overt acts -- I believe the Court accurately read from the indictment. However, insofar as overt acts include money paid by UC-1, I think the Court should instruct the jury that, as a matter of law, an act by an undercover is not an overt act in furtherance of a conspiracy because they are not conspirators.

MR. MARK: An instruction like that would be misleading because it wouldn't provide any of the context for the fact that an act caused by a defendant would be such an act, so we would object to that.

THE COURT: The objection is overruled.

MR. MARK: I'm just going to note a couple things non-substantive, just what I saw.

THE COURT: Very well.

MR. MARK: Candidly, we should have caught them before. I don't think they make a difference. There was a reference to the commercial bribery laws in the Travel Act conspiracy. We would remove the charges related to California and Oklahoma. They still exist on page 38. I don't think that's material and it doesn't sound like the defense does

1 either.

2 And on page 43, in the willfully causing instruction,  
3 your Honor read at the bottom of page 43, the word "provide" as  
4 "proving" which I think was correct in one's mind -- as  
5 providing, though I think it meant proving. But I think the  
6 intent of the instruction was clear. Just making a note for  
7 the record.

8 THE COURT: Very well. Anything else?

9 MR. CHANEY: No, your Honor.

10 MR. MARK: No, your Honor. Thank you.

11 We'll take a fifteen-minute break.

12 (Continued on next page)

13

14

15

16

17

18

19

20

21

22

23

24

25

(In open court)

THE COURT: We're going to take our breaks. It's going to be 15 minutes. So, please be prepared to come back at 20 minutes of the hour.

you are still not to discuss the case.

(Jury not present)

THE COURT: Fifteen minutes. Don't be late.

MR. MOORE: Your Honor, I want to discuss this with my client. But I know Juror No. 3 appeared to be asleep during large portions of your charge. And I know that she has a copy of it, but that has been a persistent issue throughout this case.

MR. MARK: Your Honor, I mean, I noticed that she had at some times seemed to have her eyes closed, but it didn't necessarily appear to me that she was necessarily asleep, as opposed to just closing her eyes.

THE COURT: Mr. Moore, let me know any application you want to make.

MR. MOORE: Yes, sir. I need to discuss it with my folks.

THE COURT: All right.

(Recess)

(Continued on next page)

1 (Jury not present)

2 MR. SOLOWIEJCZYK: Your Honor, do you intend to take a  
3 break during the summation?

4 THE COURT: We'll see how --

5 MR. SOLOWIEJCZYK: I think it's going to be two hours,  
6 but, honestly, I'm not positive. I think about two hours.

7 THE COURT: Not positive on the high or low? I'll ask  
8 Ms. Bustillo.

9 MR. SOLOWIEJCZYK: She probably knows better at this  
10 point.

11 MS. BUSTILLO: Perhaps closer to two hours, your  
12 Honor.

13 MR. MOORE: And, your Honor, we're skimming through  
14 their slides. We just got them a few minutes ago. I doubt  
15 that there's going to be anything objectionable, but I'm just  
16 skimming them.

17 THE COURT: I'm sure you'll find something.

18 MR. MOORE: I really do believe as a general rule --  
19 (Jury present)

20 THE COURT: Everyone, please be seated.

21 Ladies and gentlemen, because the government has the  
22 burden of proof, it is traditional that they go first, and so  
23 we will begin with the government's opening summation.

24 Mr. Solowiejczyk.

25 MR. SOLOWIEJCZYK: Thank you, your Honor.

1           Good morning. Ladies and gentlemen, over the past two  
2 weeks you have seen a whole lot of cash change hands in hotel  
3 rooms in Las Vegas, in New York, and in between. Why was  
4 Christian Dawkins flying around the country handing out  
5 envelopes filled with cash to NCAA men's basketball coaches?  
6 Why was Merl Code introducing Dawkins and his new business  
7 partners to more and more of these coaches?

8           You know the answer to that question now, and it is  
9 simple: to bribe them. To pay these coaches in return for  
10 steering their players to Christian Dawkins and his new  
11 company, because getting those top players as clients could  
12 mean huge profits for Dawkins. And the defendants were willing  
13 to do anything to reap those rewards, even if it meant paying  
14 bribes to the people that the player trusted most, their  
15 coaches.

16           You know that none of these coaches were allowed to be  
17 taking any of this money, and the defendants knew that too.  
18 You know that the defendants paid these bribes to get ahead, to  
19 cheat. The defendants wanted to ensure that the corrupt  
20 coaches they were paying manipulated these players. They  
21 didn't care what this meant for the kids themselves, that they  
22 would never have the opportunity to make informed choices about  
23 one of the most consequential decisions in their lives, which  
24 agents and advisers to entrust with their newfound wealth.  
25 Thanks to the defendants' bribes, the fix was already in.

1           When these coaches would tell these young athletes  
2           that they should go with Dawkins and his associates, it wasn't  
3           because they thought they were the right advisers to entrust  
4           and safeguard these kids' interests. No, unbeknownst to these  
5           athletes, it was because the coaches were getting paid off.  
6           And, ladies and gentlemen, because of all of those things, you  
7           know that these defendants are guilty.

8           Now, this is the government's closing argument, and  
9           it's our opportunity to walk you through all the evidence that  
10          you've heard in this case to show you how, when you take all of  
11          that evidence together, it proves that these defendants are  
12          guilty beyond a reasonable doubt. Ladies and gentlemen, the  
13          evidence in this case, taken in its entirety, is overwhelming.

14          So here is how I'm going to proceed. First, I'm going  
15          to talk about Christian Dawkins' testimony and why you simply  
16          cannot credit a word that he said on that witness stand under  
17          oath yesterday and the day before.

18          Second, I'm going to talk to you about all the  
19          important reasons why you know that these defendants are  
20          guilty. Almost every single shred of evidence in this case  
21          consists of the defendants' own words and their own actions,  
22          all of it caught on tape.

23          Third, I'm going to address some of the arguments that  
24          have been raised by the defense and why, when you scrutinize  
25          those arguments, they simply don't make any sense.

1           Finally, I'm going to talk to you briefly about the  
2           specific crimes that the defendants are charged with and why,  
3           when you apply the law as Judge Ramos has instructed you on it,  
4           you will find these defendants guilty.

5           So, ladies and gentlemen, let me start right out of  
6           the gate with the testimony that you heard from Christian  
7           Dawkins who, over the past two days, took that witness stand  
8           and lied to you under oath repeatedly. Now, ladies and  
9           gentlemen, let me be clear about something. The defendants in  
10          this case, they don't have the burden. The government has the  
11          burden, and we embrace that burden. But when the defendant  
12          chooses to present evidence, when a defendant chooses to  
13          testify, you have an obligation to scrutinize that evidence and  
14          that testimony. And when you do that, you are going to quickly  
15          realize that what Christian Dawkins told you is simply not  
16          credible.

17          You heard a lot from Dawkins when he testified about  
18          how really this was all just a big hustle; that he was trying  
19          to steal the undercover FBI agent's money, Jeff D'Angelo; that  
20          he didn't really pay any coaches with an intent to bribe him.  
21          That's the central thrust of Mr. Dawkins' defense, because when  
22          you get caught on tape talking about bribing coaches and when  
23          you get caught on tape actually paying coaches envelopes full  
24          of cash, well, that's all very hard to explain away.

25          But, ladies and gentlemen, when you actually look at

1 the evidence in this case, the things that Christian Dawkins  
2 said, the things that Christian Dawkins did when he didn't know  
3 anybody was listening, you know that he's lying, because a  
4 number of the things Mr. Dawkins said in this courtroom under  
5 oath were demonstrable lies, lies both big and small. The fact  
6 that Dawkins was willing to so cavalierly lie to you while  
7 testifying under penalty of perjury, it tells you everything  
8 that you need to know, because the biggest lie Dawkins told you  
9 was that he never paid any college coaches and that he never  
10 intended to bribe them.

11 Now, I'm not going to walk through all of the lies  
12 that Mr. Dawkins told you over the past two days. I'm just  
13 going to talk about two, two demonstrable lies, two of the most  
14 egregious. When you consider those lies, you're going to  
15 quickly realize you can't credit a word that Christian Dawkins  
16 said.

17 So let me start with the first lie, the Preston Murphy  
18 story. You heard during this trial about a series of meetings  
19 that took place in Las Vegas in which Christian Dawkins, Jeff  
20 D'Angelo, and Marty Blazer met with a series of men's college  
21 basketball coaches, and you saw on tape that they went ahead  
22 and paid a bunch of them, right? You heard and you saw those  
23 two lies that Preston Murphy got paid on tape, right? You saw  
24 the envelope in his hands. That was a meeting on July 28,  
25 2017.



1           This evidence is a big problem for Christian Dawkins  
2 because it clearly shows him -- he's right there, right -- on  
3 camera right as his new business partners and he are handing a  
4 cash bribe to a coach who's literally wearing a shirt with his  
5 university's name on it. And in that conversation, you'll  
6 recall, Murphy's talking about a player that he's going to be  
7 able to steer to them in exchange for this money.

8           So what does Christian Dawkins do? Well, ladies and  
9 gentlemen, if you look at a transcript of the recording of this  
10 meeting, there's a discussion of a player named Marcus  
11 Phillips. Dawkins sees this transcript and he senses an  
12 opportunity. You see, Dawkins knows that there is no player  
13 named Marcus Phillips that played on the Creighton team. So  
14 what does he do? He makes up a story to explain away the fact  
15 that he got caught on tape paying Preston Murphy.

16           This is what he told you under oath, ladies and  
17 gentlemen:

18           "We had a conversation, and then we were going to act  
19 like we were having meetings, act like we were going to be  
20 funding coaches, but in turn really get the money back from the  
21 coaches and keep it in the company."

22           And to support his tale, Dawkins told you a very  
23 specific lie. He told you that in advance of the Preston  
24 Murphy meeting, he prepared Preston Murphy about what to say,  
25 and they agreed that they were going basically make up a player

1 because these bozos, Jeff D'Angelo and Marty Blazer, who didn't  
2 know a thing about basketball, they weren't going to know the  
3 difference anyway. So they could have said the name of any  
4 player.

5 This is what Dawkins told you:

6 "You indicated during the meeting that Marcus Phillips  
7 was a potential NBA player, didn't you? And you were  
8 projecting Marcus Phillips was going to be the perfect future  
9 client for Loyd Management, right?"

10 THE COURT: Mr. Solowiejczyk, could I ask you to slow  
11 down when you read.

12 MR. SOLOWIEJCZYK: Sorry. My apologies, your Honor.

13 "Mr. Dawkins, who is Marcus Phillips?

14 "He was just a random person who he made up. Marcus  
15 Phillips has never played for Creighton."

16 You remember this testimony. Dawkins didn't stop  
17 there, though. During his direct testimony, he told you more  
18 specifics about the supposed conversation, more details about  
19 what he claimed went down in Las Vegas. He said that he and  
20 Preston Murphy had a conversation in advance in which he told  
21 them: Hey, Preston, listen, just come in here, help me out. I  
22 told them because they were supposed to give me a payment for  
23 25,000; 6,000 for Preston was allocated, just say whomever.  
24 Preston just happened -- he said, We can use any name? And I  
25 said, Yes. He said Marcus Phillips, and they bought it.

1 According to Dawkins, even though you saw with your  
2 very own eyes Preston Murphy getting money, this wasn't  
3 actually a bribe because as he told you afterwards, supposedly,  
4 he met with Preston Murphy in the bathroom:

5 "What happened after Preston left the hotel room with  
6 the \$6,000?

7 "Well, went down to the casino floor, went in the  
8 bathroom of the casino. He handed me the money back in the  
9 stall.

10 "Were you guys laughing?

11 "Yeah. Yeah, it was pretty funny."

12 Pretty great story. Pretty entertaining too, Dawkins  
13 running a clever hustle on his supposed financial backer who,  
14 it turns out, was actually an undercover FBI agent. And  
15 Dawkins, when he took the stand under oath, he certainly told  
16 it to you in convincing fashion. He definitely sold it.  
17 Here's the problem, ladies and gentlemen. It's not true. He  
18 made the whole thing up.

19 What really happened? Dawkins' entire story hinges on  
20 the fact that he and Preston Murphy met beforehand and agreed  
21 that, as part of their hustle, they were just going to make up  
22 the name of a fake player because, of course, if Dawkins is  
23 actually caught on tape talking about a real player with  
24 Preston Murphy in the same breath that he was paying Preston  
25 Murphy, well, that would be a pretty big problem for Christian

1 Dawkins, wouldn't it?

2 But here's the problem. Dawkins and Murphy didn't  
3 make up a player in the meeting. The transcript that Dawkins  
4 relied on in order to concoct this entire story, it's  
5 incorrect; it's wrong. As you heard from Judge Ramos a few  
6 minutes ago, the transcripts are an aid, but it is the  
7 recordings that ultimately you must rely on as the evidence.

8 So who did Dawkins and Murphy actually talk about in  
9 that meeting? Not Marcus Phillips. No, they spoke about a  
10 player named Marcus Foster. Let's listen to the actual  
11 recording that is in evidence.

12 (Audio played)

13 MR. SOLOWIEJCZYK: The audio is a little rough, ladies  
14 and gentlemen, but it's clear that they said Marcus Foster, not  
15 Marcus Phillips. When you're in that jury room, you can  
16 request to listen to this audio. You can request headphones  
17 and put them up at full volume and hear for yourselves. And we  
18 respectfully submit that when you do that, it's going to be  
19 very clear that they said Marcus Foster, not Marcus Phillips.

20 Well, Dawkins' story begins to fall apart from there,  
21 doesn't it? Because if they were talking about a real player  
22 when Murphy got paid, this whole thing is very, very  
23 incriminating. Because who is Marcus Foster? He was actually  
24 on the Creighton team in the summer of 2017, and Dawkins  
25 admitted this on cross-examination:

1 "Now, it's your understanding that there's a player --  
2 or there was a player on Creighton's team named Marcus Foster?

3 "There was a Marcus Foster, yes.

4 "Marcus Foster, correct?

5 "Correct."

6 So what about that conversation with Preston Murphy  
7 that he told you about where they supposedly agreed to make up  
8 a fake player and how they laughed about it afterwards? None  
9 of it ever happened. It's a lie. It's all entirely premised  
10 on an error in the transcript.

11 What's really interesting about the way Christian  
12 Dawkins lied to you about the Preston Murphy meeting is that he  
13 tried to concoct a story that he thought was most to his  
14 advantage. He saw an opportunity in the transcript, a name of  
15 a player that he knew didn't exist, and he tried to use that to  
16 his maximum benefit. He tried to talk his way out of this.  
17 That's what he does. He cheats and he lies to get ahead. When  
18 he told you that he was really in Vegas to hustle Jeff  
19 D'Angelo, in reality, he was just trying to hustle you by lying  
20 about what happened under oath.

21 But, ladies and gentlemen, that's not the only lie  
22 that Christian Dawkins told you when he took the witness stand.  
23 He told another really big, really significant lie about Las  
24 Vegas, and this one, it totally wrecks this fantastical tale  
25 that he wove for you on that witness stand under oath.

1 According to Dawkins, even although he saw Preston  
2 Murphy, Corey Barker, and Tony Bland get bribed on tape, that  
3 isn't what really happened. Your eyes deceived you. What  
4 really happened, according to Dawkins, is Preston Murphy got  
5 \$6,000, they met in a bathroom, and Dawkins and him exchanged  
6 the \$6,000 back, and they had a good laugh.

7 Let me just note something, ladies and gentlemen,  
8 because this is a commonsense argument. You all know from this  
9 trial that these coaches, if they get caught taking this money,  
10 they can get fired. Use your common sense. Do you really  
11 think they were all going to put their jobs in jeopardy to help  
12 Christian Dawkins run a little scam on his new business  
13 partner? It makes no sense. But I'm about to prove to you  
14 it's a total lie.

15 So he says, 6,000 for Preston Murphy. Then he says,  
16 6,000 for Corey Barker, yeah, you saw that on tape, but it  
17 didn't happen. We met and he gave me the money back. And then  
18 Tony Bland, 13,000, yeah, you saw that on video. Well, you saw  
19 the envelope, and then they went out of the room, but the  
20 reality is, yeah, basically, I kept all that money. I gave  
21 Tony Bland \$2,000. I kept the rest; I kept the 11,000.

22 I'm just going to show you this testimony on this very  
23 briefly, ladies and gentlemen:

24 "Did you ever give Tony Bland that 13,000?

25 "No, I did not.

1 "How much money did you give Tony Bland?

2 "Tony Bland got between a thousand and \$2,000, I  
3 believe. It wasn't more than 2,000 for sure. So the rest of  
4 the money, I didn't give Tony; I deposited in my bank account,  
5 the Loyd Inc. bank account."

6 That's what he told you. Then, ladies and gentlemen,  
7 as you recall, Mr. Haney walked Mr. Dawkins through the bank  
8 statements for the Loyd account. As you recall, Mr. Haney  
9 focused on three deposits: a counter credit of \$5,000 on  
10 July 28; an ATM deposit of \$8,900, and it was actually on  
11 July 29, even though it says 7/31, if you look at the line  
12 item, it was July 29 in Las Vegas; and then a counter credit of  
13 \$8,000 on August 3, 2017.

14 During his direct testimony, Dawkins told you that  
15 when you total up these three deposits -- well, let me take a  
16 step back. First of all, Dawkins told you that he personally  
17 made these three deposits. He told you that under oath, that  
18 these three deposits happened in Las Vegas, that he made these  
19 three deposits. This is what he said:

20 "So would you agree with me that in the period of six  
21 days, you deposited \$21,900 or \$21,900 in credits to your bank  
22 and Bank of America out in Las Vegas?

23 "Yes."

24 So he told you, I made these deposits. Then Dawkins  
25 compared these deposits against what he said each of the three

1 coaches had given him back, and the upshot of that testimony  
2 under oath was that the deposits in the Bank of America account  
3 basically match up almost perfectly with the amount of money  
4 that Dawkins told you that Murphy, Barker, and Bland had handed  
5 back to him as part of this supposed hustle.

6 He said the payments were 13,000 for Bland, 6,000 for  
7 Murphy, 6,000 for Barker.

8 "So you would agree that if you gave Tony Bland 2,000,  
9 11,000, 6,000, and the 6,000 would equal 23,000, almost exactly  
10 the amount of the deposits reflected on the bank statement in  
11 Las Vegas around the end of July and early August, correct?

12 "Correct."

13 This was the crux of Dawkins' story, that he was just  
14 taking these fools' money out in Las Vegas, that he actually  
15 had gotten back the money handed off to the coaches and  
16 deposited it into the Loyd account, and that there was \$23,000  
17 that went to the coaches and \$21,900 that went into the bank  
18 account.

19 There's just one problem. This story, it doesn't  
20 stand up to even the most basic scrutiny because what Dawkins  
21 did here, it's actually very, very similar to what he did in  
22 lie number 1, the Preston Murphy lie. You see, Dawkins looked  
23 at the bank statements that showed the deposits, but he never  
24 bothered to look at the underlying bank records. And those  
25 underlying bank records, they prove that he's lying. You



1 should take a close look at these bank records when you  
2 deliberate, they're Government Exhibit 1401E, because when you  
3 do, it blows a giant hole in Dawkins' story. That \$8,000  
4 deposit on August 3 that Dawkins told you under oath he made in  
5 Las Vegas, huh-uh, it's a check from Preston Advisory Group  
6 from Munish Sood. It's not cash. Dawkins didn't deposit it in  
7 Las Vegas. Pretty big lie, but he wasn't done yet.

8 He lied again about the bank records. This one's an  
9 even bigger lie. Then he told you under oath that the \$25,000  
10 reflected on the August 1 Loyd bank statement, let's just --  
11 that's there, right? He saw the bank statement. What lie is  
12 he going to concoct now? Let's look at the testimony:

13 "Now, on this same bank record we see \$25,000 deposit,  
14 correct?

15 "Correct.

16 "Very top?

17 "What was your understanding that was for?

18 "So, obviously, Jeff had, you know, expressed that he  
19 wanted to pay coaches. That was the way he wanted to run the  
20 business. I wasn't so sure that he was going to actually give  
21 me the money. So for protection, I set up three meetings where  
22 money would be transferred, one for 13,000, one for six, one  
23 for -- another for six. It equals 25 -- which equals to be  
24 25,000. On the first, August 1, I actually did get 25,000. I  
25 was assuming for -- for actually fulfilling my

responsibilities. It went into recruiting expenses and everything like that. But they actually did come through with the number that they were supposed to give me."

Then he went on:

"Were you working anywhere other than with Loyd Management?

"No.

"Was there any other money that you had coming in from any other works that you were performing?

"No.

"Would there be any other reason why your bank or the Loyd Management account would reflect those deposits other than what you're testifying to today?

"No. Everything that was deposited was given to me from the government."

That's what he said.

Yet again, he was lying. His elaborate explanation about how this \$25,000 deposit was Jeff D'Angelo coming through with what he had promised, the whole thing is just a lie. The counter credit of \$25,000 on August 1, it wasn't a deposit at all from D'Angelo. As you saw during Mr. Boone's cross-examination of Mr. Dawkins, this was, in fact, a check for \$25,000 from a fellow named Ricky Robertson in consulting fees. And as you saw from text messages that Mr. Boone showed Mr. Dawkins during cross-examination, it was Merl Code, not the

1 government, that had caused that deposit into Dawkins' Loyd  
2 account. There are text messages between them at Government  
3 Exhibit 102T2 relating to this, and you can look at them in the  
4 jury room.

5 Indeed, as Dawkins acknowledged under  
6 cross-examination, that \$25,000 check from Ricky Robertson  
7 related to an entirely separate scheme to send this guy named  
8 Brian Bowen to the University of Louisville. This is what  
9 happened:

10 "Do you know the name Ricky Robertson? You've heard  
11 in a name before?

12 "Yes.

13 "Ricky Robertson doesn't for the FBI, right?

14 "No.

15 "He doesn't work for the U.S. Attorney's Office?

16 "No.

17 "He's a grassroots basketball coach, correct?

18 "Yes.

19 "Coaches a team called Caroline Chaos, right?

20 "It's your understanding that the bank account of the  
21 Carolina Chaos was used in the Brian Bowen --

22 "It was.

23 "-- situation?

24 "Yes.

25 "That's what led to your previous conviction?

1 "Yes."

2 So that \$25,000 deposit that Dawkins told you was from  
3 his new business partners that later he realized were  
4 undercover FBI agents, that wasn't true either. Think about  
5 the audacity of this lie, ladies and gentlemen. It is  
6 staggering. Mr. Dawkins under oath tried to say that a deposit  
7 that's actually related to a separate fraud conviction was  
8 instead a deposit from the government that bolstered his  
9 defense in this case. Bottom line, you can't trust a word that  
10 Christian Dawkins said to you over the past two days, not a  
11 word of it.

12 Ladies and gentlemen, it's no surprise that Christian  
13 Dawkins lied because, as you heard, Dawkins has been convicted  
14 of wire fraud previously, an offense that involves lying. That  
15 was directly related to his activities in the world of college  
16 basketball.

17 All right. So now let's get to the meat of it, the  
18 biggest lie of all of them. When Dawkins said this under oath:

19 "Mr. Dawkins, lastly, based on the evidence that we've  
20 seen, the bank records, your testimony, did you ever pay a cash  
21 bribe to any of the coaches you are charged with in this case?

22 "I never paid a coach with the intent of bribing or  
23 influencing him to do anything for me."

24 That's a lie too. Now, to be clear, ladies and  
25 gentlemen, no one here is saying that Dawkins thought paying

coaches was the end-all and be-all of recruiting players. The evidence clearly shows that Dawkins sometimes thought it made sense to pay coaches and sometimes he thought it made sense to pay other people who were close to the player. He certainly didn't want to spread the money around to coaches, as he put it, idiotically. He wanted to be strategic. But when Christian Dawkins got on the stand and told you that his legitimate business model was to pay anyone and everyone -- players, families, handlers, uncles, aunts -- everyone except coaches, that's not credible. It's not credible on its face. It's not credible from such a demonstrable liar, and it's contradicted by the evidence in this case, and it's contradicted by your common sense as well, ladies and gentlemen.

So let me walk you through that evidence now step by step. It's going to take a little while, I'll warn you, because there's a lot of it. Let me start by talking about the four main reasons why you know Christian Dawkins and Merl Code are both guilty.

So, basically, everything that I'm going to talk about during this section is the defendants' own words and actions. All of it, paying the coaches, seeking that they do something in return, it's all on tape. And there's really no dispute here that everybody knew in this case, and these defendants certainly knew, that paying coaches was not something they were

1 allowed to be doing and that the coaches were going to be fired  
2 if they were ever found out. I'll turn back to that a little  
3 later.

4 But keep in mind, as I go through this, I'm just  
5 quoting the defendants' own words. I'm just telling you about  
6 their own actions, that's it.

7 So let me start with a very straightforward point, but  
8 it's an important one. We know, you know that the coaches got  
9 paid. You know that Christian Dawkins made some of these  
10 payments himself, and you know that he caused other people to  
11 make certain of the other payments. So let me start right  
12 here, right up front. The two payments that I'm going to talk  
13 about first, when Christian Dawkins got on the stand, he had no  
14 credible explanation for these payments, and the payments I'm  
15 referring to are the payments that were going to Lamont Evans  
16 and the \$15,000 payment to Emanuel Richardson. Those two  
17 payments, among many, many other payments I'm going to talk  
18 about, but those two payments especially, are devastating  
19 evidence of Christian Dawkins' guilt, and you can convict him  
20 on all of the counts in this case just based on those two  
21 payments.

22 Ladies and gentlemen, you know why Dawkins made these  
23 payments. The evidence is clear. Dawkins fed money to these  
24 coaches to get players as clients in return. Let me start with  
25 the Lamont Evans. Back in late 2015 and early 2016, as you

1 heard, Christian Dawkins had never met Marty Blazer yet; he  
2 never met Jeff D'Angelo yet. What was Christian Dawkins  
3 already doing? He was bribing coaches, namely, Lamont Evans of  
4 the University of South Carolina. How do you know this? It's  
5 very straightforward. Christian Dawkins told you himself in  
6 his own words on recording after recording in this case that he  
7 paid Evans. Not paying Evans for his health, not paying Evans  
8 for kicks, paying Evans to get one of his players as a client.

9 And one of the very first times that Christian Dawkins  
10 spoke to Marty Blazer, he laid the entire thing out for him.  
11 Dawkins set up an in-person meeting for Blazer and his business  
12 associate Munish Sood with Lamont Evans so they could talk  
13 about these payments that were going to happen. And you  
14 listened to a lengthy recording of that meeting. It's  
15 Government Exhibit 501A through 501F. When you go back in the  
16 jury room, you should focus on these exhibits because when you  
17 do, it's going to be plain as day to you that Christian Dawkins  
18 was bribing coaches well before he ever met Marty Blazer or  
19 Jeff D'Angelo.

20 So what does Dawkins say after they meet with Lamont  
21 Evans that day in South Carolina? He tells Marty Blazer and  
22 Munish Sood in the car ride back, in significant detail, how he  
23 has been paying Lamont Evans in recent months. He says: I  
24 mean, I know I was giving him 2,500 a month for a couple of  
25 months. He was needing shit when the kid first got here. I

1 was just coming to do the drop down here. Or you know, Lamont  
2 recruit in the Atlanta. See him in Atlanta, go to the bank,  
3 give him the 2500. He ain't gonna do shit like that now, on no  
4 paper, no paper and shit.

5 That's what he said when he didn't think nobody was  
6 listening. That's actually the entire reason he was talking to  
7 Marty Blazer. He wanted Blazer to take over the payments that  
8 he had been making to Evans. That's exactly -- what Christian  
9 Dawkins asked what happened, did Blazer take over paying Evans,  
10 that is exactly what happened. That all happened at Christian  
11 Dawkins' direction and behest. So from the outset the idea to  
12 pay coaches belonged to one person, and one person alone, in  
13 this case: Christian Dawkins.

14 And Dawkins wasn't just saying that he was paying  
15 Evans to Blazer and Sood. If you look at some documents that  
16 we put into evidence from his old employer, ASM Sports, this is  
17 an email from Christian Dawkins to Andy Miller who, as you  
18 know, was a major sports agent who was his boss. And in this  
19 email, he mentions that he's looking for a favor. The other  
20 favor is for Lamont Evans from South Carolina, the guy who has  
21 PJ Dozier, and he's asking Andy Miller to pay for a flight that  
22 Lamont Evans is asking him to pay for. And he also  
23 acknowledges in this email that Lamont Evans is controlling the  
24 PJ Dozier situation. That's an important point, ladies and  
25 gentlemen.



1           So you know that Dawkins' payment to coaches did not  
2 stop there. That was actually just the beginning. As you saw,  
3 what Dawkins set in motion with Lamont continued. Marty Blazer  
4 took over these payments, and he testified about how he was  
5 making payments to Lamont periodically from 2016 through 2017.  
6 Blazer and Dawkins didn't talk for a while, as you heard,  
7 because Blazer was having some troubles that came out with the  
8 SEC, as he testified to, that he had stolen well over a million  
9 dollars of his client's money, and Dawkins kept his distance.

10           But then, as you heard, Dawkins got fired from ASM  
11 Sports. And as you heard during cross-examination, the NBA  
12 Players Association did an investigation of Dawkins, and they  
13 issued a memo indicating that he had run up charges on Uber  
14 without a client's permission. And you heard that this memo  
15 went out to all NBA players and all NBA agents.

16           So now Dawkins no longer had the backing of the big  
17 sports agency, and he needed to find some funding to stay in  
18 the business. So he went in search of new money. He  
19 reconnected with Blazer and the new potential business partner  
20 named Jeff D'Angelo. What did Dawkins tell -- excuse me, what  
21 did Blazer tell Dawkins on the very day that they signed the  
22 shareholder agreement to create Loyd Inc.?

23           I never stopped. When you set that into motion with  
24 him and doing what he needed to have done, I never backed away  
25 from that. He was referring to Lamont Evans, as you recall.

1 Blazer told Dawkins straight out: We're still paying  
2 Lamont Evans. And then he even went on to tell him the  
3 specific amount they were paying him per month, \$4,000 per  
4 month.

5 So what was Christian Dawkins' response to all this  
6 when he heard it? Did he say, Hey, I think you guys shouldn't  
7 be paying coaches? Hey, Marty, I think this is idiotic? No,  
8 of course not. Because by this point Christian Dawkins has  
9 already paid coaches in the past, and he understands that there  
10 can be some value in paying coaches.

11 What did does he say? He says: You guys are paying  
12 the wrong coaches. Let me tell you who we should really be  
13 paying, the elite, elite dudes, guys like Emanuel "Book"  
14 Richardson of the University of Arizona, because guys like him,  
15 they've got access to top ten draft picks every year, unlike  
16 Lamont Evans. He wanted to make it smarter and get the most  
17 bang so everybody can make money.

18 These are the words of Christian Dawkins, ladies and  
19 gentlemen. It's Christian Dawkins' idea to pay Book Richardson  
20 because he knows Book Richardson can steer him some of the best  
21 top talent in college basketball. And all of this, this  
22 conversation, this all predates Dawkins' supposed pivotal  
23 decision to run some kind of hustle on the FBI agent.

24 On June 6 when this conversation happened, Dawkins had  
25 spoken to Jeff D'Angelo a handful of times. So what did

1 Dawkins do? He wasn't just talking about this. He then went  
2 ahead and made the payments to Richardson happen. He set up a  
3 meeting with Richardson a few weeks later in New York at the  
4 Conrad hotel. And as you saw in the video of that meeting,  
5 Richardson got paid \$5,000.

6 Now, a few weeks later, Richardson reached back out to  
7 Dawkins, and he said he needed \$15,000. Why did Richardson  
8 need \$15,000? Well, Christian Dawkins told Munish Sood why.  
9 It was to land a recruit that he wanted to get to come to the  
10 University of Arizona, a kid named Jahvon Quinerly. And  
11 Dawkins said to Sood, Book needs 15, but what he's saying is  
12 that's going to close the deal for him with the kid he's trying  
13 to get. That gets it done.

14 And then you know that after this Dawkins spoke to  
15 Richardson as well, and he told Richardson -- mind you, this is  
16 a conversation where there are no -- there's no Jeff D'Angelo  
17 around. There's no Marty Blazer around. This is just between  
18 the two of them, when they don't think anybody's listening. So  
19 this is very crucial evidence, Government Exhibit 114T.

20 Dawkins: Real quick, so Jeff can do this 15. You  
21 cool with that supplemental, like three months, basically?

22 Checks with D'Angelo. He's like: Can I get the  
23 15,000? D'Angelo eventually says yes. And he tells  
24 Richardson, I'm going to get you the \$15,000 that you need.

25 I'll return to talk about this more, ladies and

gentlemen, but you should pay particular attention to 142 and 114 because those are two particularly devastating pieces of evidence of Christian Dawkins' guilt. These exhibits show you that the self-serving explanations that Christian Dawkins provided to you over the past few days, they don't hold up when you actually consider what Dawkins was doing and what he was saying in real time to people like Emanuel Richardson, not to people like Jeff D'Angelo or Marty Blazer.

In these calls, Dawkins is adamant that Jeff D'Angelo should pay this money to Richardson, and he's very, very clear about the reason why he thinks Jeff D'Angelo should pay. He's pushing and prodding because he wants to get a player out of this. That's what's in it for him. He's not a booster for the University of Arizona. He's a businessman.

Dawkins caused \$20,000 in cash payments to Richardson. All -- this is all Christian Dawkins' doing. It's all his idea. He's the one who suggests Richardson when they tell him that they've been paying Lamont Evans. He's the one that ups the ante and makes the \$15,000 payment happen. What Dawkins was trying to do was find the best coaches to pay, and Book Richardson fit the bill because he had access to the top players in college basketball, and that's why Christian Dawkins got Book Richardson paid.

Christian Dawkins wasn't done paying coaches yet. Now he enlisted some help to expand the network of coaches that

1 would be paid. He brought in Merl Code so that Merl Code could  
2 help make introductions to yet more coaches. Every  
3 conversation, every cash payment in Vegas, it's all caught on  
4 tape. And I already went over this in responding to the  
5 various lies that Christian Dawkins told you, but just to  
6 remind you briefly, Preston Murphy got \$6,000, Corey Barker got  
7 \$6,000, and Tony Bland of USC got \$13,000. And some of the  
8 coaches in Las Vegas that were on the schedule that Merl Code  
9 sent, they didn't get paid, but some of them did, Preston  
10 Murphy of Creighton and Tony Bland of the University of  
11 Southern California. Those are both meetings that are on the  
12 schedule that Merl Code sent to Christian Dawkins in advance of  
13 the Las Vegas meetings in late July.

14 Now, ladies and gentlemen, this is another important  
15 point. All these payments to coaches that were going on, Merl  
16 Code knew all about them. By the time Merl Code teamed up with  
17 Christian Dawkins, he knew exactly who he was dealing with. He  
18 knew that Christian Dawkins bribed coaches. He knew that Jeff  
19 D'Angelo and his business associates did too. Let me just  
20 point you to a couple of pieces of evidence that show you this.

21 When it comes to Lamont Evans, Merl Code told Munish  
22 Sood when he didn't think anybody was listening that he knew  
23 Christian had given Lamont Evans money for a kid in the past.  
24 Merl Code was aware of that. What about Book Richardson from  
25 Arizona? Merl Code knew that Christian Dawkins and his

business associates had paid Emanuel Richardson. Indeed, Merl Code knew that Emanuel Richardson got paid \$5,000 hours before Merl Code met with Jeff D'Angelo and Marty Blazer and Christian Dawkins on June 20 in New York. You know this because Dawkins told Code himself in an intercepted telephone call:

How'd it go with Book?

Book, I'm pretty sure Book got like five g's because he hit me saying everything was good.

And Code says: We didn't discuss numbers, because I'm not even sure if he wanted me to know.

Code acknowledges the same thing when he sits down with D'Angelo and Blazer and Dawkins at the meeting on June 20. They're talking about the Book meeting:

I'm pretty sure he left happy, so -- that's what D'Angelo says.

And Code says: He was happy.

He knew he got the \$5,000. What did Merl Code do at that point? He started accepting money in exchange for introducing these gentlemen to more coaches, lots of coaches. And surprise, surprise, some of those coaches got paid too, including Preston Murphy and Tony Bland.

I'll talk about all of that and how all of the other evidence proves beyond a reasonable doubt that Merl Code is guilty later on in this closing statement.

What's the second reason that you know these

1 defendants are guilty? It's the reason that the defendants  
2 were making the payments in the first place. Because, ladies  
3 and gentlemen, make no mistake, the driving purpose behind  
4 these payments was exactly what your common sense tells you it  
5 is, to get the coaches to steer the players to the guys making  
6 the payments.

7           And I just want to note one thing here, and Judge  
8 Ramos already instructed you on it, but it's important. At  
9 bottom, the charges in this case turn on the fact that these  
10 defendants intended for these coaches to do something in return  
11 for the money they were provided. You already heard about the  
12 details of that from Judge Ramos. That's exactly what happened  
13 here. These defendants clearly intended to get something in  
14 return from these coaches, namely, that the coaches would use  
15 their influence and power to steer their players to Dawkins and  
16 his new company.

17           So let's talk about some of the evidence that tells  
18 you that this is the case. Dawkins made no secret about why he  
19 was paying coaches. He said it actually explicitly over and  
20 over again, straight to the faces of the coaches that he was  
21 paying. He said it to D'Angelo. He said it to Sood. He said  
22 it to Code. He said it to coaches when nobody else was around.  
23 He said it to everyone.

24           So let's start with Lamont Evans. March 3, 2016,  
25 meeting with Lamont Evans in South Carolina. Christian Dawkins

1 lays the whole thing out at that meeting. It's devastating  
2 evidence of his guilt, open and shut. At that meeting, right  
3 in front of Lamont Evans, the coach that he has been paying, he  
4 tells Marty Blazer and Munish Sood why he's being paying Evans.  
5 He says: You gotta get the college coaches too, because if I'm  
6 coming to talk to him about PJ well, F, you need to be talking  
7 to him.

8 He's telling them right up front, if you want to get  
9 PJ Dozier, you need to work with Lamont Evans.

10 And then he went on. He explained that Lamont Evans  
11 would be in a position, because he was the coach, to block out  
12 the competition, to block out the other agents, because he was  
13 with PJ Dozier every day. You need to get in bed with somebody  
14 like him now so you've got complete access to the kid. He can  
15 control who else comes in this bitch, because if the coaches  
16 say, yo, can't nobody come around, can't nobody F'ing come  
17 around.

18 He said all of that in front of Lamont Evans at that  
19 meeting. He summed it up right there: This is why I'm paying  
20 coaches. This is what I expect in return from them. This  
21 evidence shows that Dawkins is guilty.

22 Now, Dawkins said the same thing in front of numerous  
23 other coaches that he either paid himself or caused his  
24 business associates to pay. Let's talk about Emanuel  
25 Richardson for a minute. When Dawkins went out to Arizona with



1 Jill Bailey and Munish Sood to meet with Emanuel Richardson in  
2 late August, they had the following exchange. They were  
3 talking about a kid named Rawle Alkins:

4           Yeah, he's fucking clueless, clueless, but that's good  
5 for us, because I showed him a breakdown of everything, if he  
6 can -- I think he'll do what you tell him to do.

7           Richardson: He will.

8           I think he'll do exactly. You have to be very  
9 specific with him, very clear-cut, like to the point where  
10 you're almost talking to, like, a three-year-old.

11           That's how Christian Dawkins talks about these  
12 athletes who he wants to land as clients, and he's telling Book  
13 Richardson in this meeting, this is what you need to do, Book,  
14 because we're paying you. You need to tell him very  
15 specifically, in a very straightforward fashion, you're going  
16 with Dawkins. He said it right there.

17           How about Tony Bland? Well, Dawkins had substantially  
18 the same conversation with Tony Bland, and Bland told Dawkins  
19 and his new business partners that he was going to get them the  
20 players. He offered to put them in the lap of you guys. Why?  
21 Because Dawkins was giving him money. He was offering to help  
22 Bland recruit. He was offering to finance Bland's future  
23 needs, and they talk about this. They talked about the fact  
24 that there was a gold mine over here and that Bland saw an  
25 opportunity, too, because now he was getting money from

1 somebody that he trusted.

2 Ladies and gentlemen, he said the same thing to the  
3 various coaches that rolled through those Las Vegas meetings,  
4 whether those coaches got paid or the other conversations that  
5 you heard with coaches where they talked about potentially  
6 paying them in the future to help them recruit.

7 You saw this exchange with Corey Barker:

8 We gonna be able to provide you something, you know,  
9 to make sure the kids you involved with, we get them back.

10 Right.

11 Pretty clear statement of this for that, ladies and  
12 gentlemen.

13 Now, through his testimony, Dawkins has, of course,  
14 suggested you can't credit any conversation that happened in  
15 front of any of these undercovers or Marty Blazer; that all of  
16 those conversations are this hustle. But here's the problem  
17 with that. Dawkins wasn't just telling the coaches what he  
18 expected in return from them in front of FBI agents or in front  
19 of Blazer. In the one-on-one conversations with the coaches,  
20 he's saying the same thing. The coaches that supposedly are in  
21 on the hustle with him, when you actually look at the telephone  
22 conversations between Christian Dawkins and these coaches, it's  
23 clear that this is a bribe, that there is a *quid pro quo* going  
24 on here. Let me just go through a couple of examples of that.

25 The same Corey Barker who received an envelope of

1 \$6,000 in Las Vegas, this is a phone conversation they had:

2 This is a layup for you. It's a layup.

3 Ladies and gentlemen, you learned a lot about the  
4 underworld of college basketball over the last two weeks. A  
5 layup is the easiest shot in basketball; meaning, I'm going to  
6 serve this kid up to you on a platter.

7 It's a slam dunk, and that will be our two or three.  
8 This was the conversation that Christian Dawkins and Corey  
9 Barker are having when they think nobody else is listening.  
10 Dawkins had substantially the same conversation with Tony  
11 Bland, another coach that he had paid and he was offering to  
12 finance in the future:

13 So we can just get it done and over. Like, can we do  
14 this to get it done and over with, T?

15 And Bland says: And this is about to be my layup.

16 Dawkins then says: I can get F'ing Elijah Stewart?

17 Bland: No question. No question.

18 Here's another point that's worth considering, ladies  
19 and gentlemen. All of these coaches that Christian Dawkins is  
20 now suddenly getting to steer him players, as you heard from  
21 the cross-examination by Mr. Boone, none of them had ever  
22 previously steered a player successfully to Christian Dawkins.  
23 The reason they were offering to do it now was because he was  
24 paying them.

25 Dawkins and Code and the other members of this

1 conspiracy also spoke openly about what they expected from  
2 these coaches amongst themselves. When it came to Lamont  
3 Evans, Christian Dawkins couldn't have been any more clear with  
4 his coconspirators. Take a look at this exchange.

5 Well, one in South Carolina, he told Blazer and Sood  
6 that this is what Evans was going to do for them. He was going  
7 to block everybody from coming around and give you access.  
8 When the time is right, like, everything will be lined up  
9 because that's his job too, meaning Evans' job.

10 Later on, when Dawkins heard that Evans had been paid  
11 over a period of many months by Marty Blazer and then Jeff  
12 D'Angelo and Dawkins wasn't seeing results, Evans hadn't  
13 steered them Jeffrey Carroll on Oklahoma State yet, what was  
14 Dawkins saying? He was saying, where's the return on  
15 investment? Well, first of all, it's clear that they knew that  
16 when Jeff D'Angelo paid Lamont Evans, it was to their benefit.

17 This is an exchange between Munish Sood and Christian  
18 Dawkins:

19 Jeff's funding him, so we may as well take advantage  
20 of it.

21 Dawkins: Will do. I like Lamont.

22 When Lamont wasn't actually giving them anything in  
23 return for this, here's what Dawkins said to Jeff D'Angelo:

24 I was giving Lamont resources prior to knowing you  
25 guys.

1 Again, another admission that he had paid Lamont Evans  
2 in the past.

3 I've helped Lamont with numerous things, and he got a  
4 kid right now that I want.

5 If you gonna give him the money every month, like what  
6 are we talking about? What else -- what else are we doing it  
7 for?

8 Christian Dawkins laid it out again pretty simply  
9 there. If we're going to pay Lamont Evans, he better be  
10 sending us players in return, this for that. Dawkins told  
11 Munish Sood the same thing. If we're paying this F'ing guy and  
12 we don't get Jeffrey Carroll, like what the F are we doing this  
13 for? This for that. 118, 119, devastating proof of Christian  
14 Dawkins' guilt.

15 Now, when Christian Dawkins and Merl Code learned that  
16 Lamont Evans wasn't just taking money from them and their guys,  
17 that it turned out he'd been taking money from another agent  
18 named Seth Cohen, what was their response to this? Don't pay  
19 Lamont Evans another nickel. Why? Because the entire point of  
20 paying Lamont Evans was so that he could steer his players only  
21 to them.

22 (Continued on next page)

23  
24  
25

1 MR. SOLOWIEJCZYK: When they found out Seth Cohen was  
2 also paying this guy, the payments wouldn't make any sense  
3 because it would ruin the quid pro quo, for this for that.

4 Here's a call between Merl Code and Munish Sood on  
5 this subject:

6 Seth has been giving him money, you know what I'm  
7 saying? Or had been. And Christian had been giving him money  
8 for a kid. So at some point in time it becomes you just using  
9 me rather than it being a necessity for the business.

10 Merl Code: The kid is okay, but the kid isn't good  
11 enough to be going through all that shit.

12 That's a pretty important conversation, ladies and  
13 gentlemen, because Merl Code isn't telling Munish Sood, don't  
14 ever pay any coaches. What he's telling him is, Don't pay  
15 Lamont Evans because he's taking from multiple guys and he  
16 isn't delivering anything in return.

17 Because Merl Code also understands that this is a  
18 "this for that."

19 Now, ladies and gentlemen, there's another common  
20 sense point that tell you that these were bribes, and that's  
21 that Dawkins and his new company, they had no business  
22 whatsoever managing these kids' money, doing any type of  
23 service for them, acting as any type of adviser for these young  
24 athletes. So, to succeed, they needed to cheat, they needed to  
25 bribe, because they were never going to get any clients if they

1 didn't.

2 As you heard when Dawkins testified, he was in his  
3 early 20s with no experience as an agent or manager. He never  
4 had taken care of any services for anybody. He was just a  
5 runner. No one in their right mind would let him manage their  
6 professional careers. And that's why Dawkins needed to bribe  
7 coaches. That's why he needed to pay all these people to  
8 manipulate these kids to go with him, because if this was on  
9 the merits, no way Christian Dawkins was ever going to win.

10 So for this to work, they had to get an angle. And  
11 the angle was: Let's pay these coaches; they've got a lot of  
12 influence; they're going to tell these kids to go with us. And  
13 unbeknownst to these kids, the coaches are getting paid off.  
14 That's what's happening here, ladies and gentlemen.

15 And Dawkins had particular problems in his ability to  
16 land clients, because as you heard when he testified, he was  
17 accused of using players' money without their permission,  
18 running of up these Uber charges. That was out there publicly;  
19 okay? And you heard on the cross-examination, I think on  
20 direct too, literally every NBA player and their agent got a  
21 memo about this. Right?

22 And who else was Dawkins working with? Who did he at  
23 least bring to some of these meetings? He brought Marty  
24 Blazer. And as you know, Marty Blazer, by this point -- it was  
25 publicly out there -- had stolen north of a million dollars

1 from his clients, had misappropriated their money and publicly  
2 settled with the SEC about this.

3 So, this team that included Christian Dawkins and  
4 Marty Blazer, didn't have a chance of actually getting any of  
5 these clients, unless they cheated. And one of the ways they  
6 cheated was paying bribes to coaches.

7 Let's turn to the third reason. Ladies and gentlemen,  
8 this wasn't just talk. These coaches actually started to do  
9 something in return for this money. And even though, as you  
10 heard, the defendants got arrested in 2017 and weren't able to  
11 see all of this all the way through, even by then, many of the  
12 coaches they were paying were starting to take action on their  
13 behalf in return.

14 Let me just give you a couple of examples.

15 Lamont Evans. When the news came out that Christian  
16 Dawkins had been terminated from ASM Sports and was accused at  
17 least of stealing clients' money, Lamont Evans had a phone call  
18 with Munish Sood. And in that call, Lamont Evans acknowledged  
19 that various parents had been calling him, parents that he had  
20 introduced Christian Dawkins to, because they were concerned  
21 about the fact that Lamont Evans had set them up with Dawkins.

22 Why was Evans introducing Dawkins to these family  
23 members of players? Simple. Because he had been paying Evans,  
24 as he admitted on tape repeatedly. And he had set up Evans  
25 with Marty Blazer to continue those payments. It didn't stop



1 there, though. As you heard, Evans also, once he started  
2 getting paid by Marty Blazer, set up an actual meeting between  
3 Blazer and Jeffrey Carroll in West Virginia, and later on  
4 during his testimony, told you what happened during that  
5 meeting, which is that Lamont Evans talked him up to the player  
6 and said: You should go with this guy. And then finally, as  
7 you heard, Lamont Evans got paid \$4,000 in Las Vegas by the  
8 group. Marty Blazer told you about that.

9 What did Lamont Evans do days after those Las Vegas  
10 meetings? He started trying to steer Jeffrey Carroll to  
11 Dawkins and his business associates. Take a look at the text  
12 messages between Dawkins and Lamont Evans:

13 Can I get with JC tonight?

14 Evans, supposed to be hitting you. Asked for your  
15 number.

16 Dawkins: What's his number?

17 Evans, he sends the contact information for Jeffrey  
18 Carroll.

19 Ladies and gentlemen, this text message was on  
20 August 3rd, 2017, and August 7, 2017, mere days after Christian  
21 Dawkins, Marty Blazer and Jeff D'Angelo paid Lamont Evans in  
22 Las Vegas.

23 You know what else is true, ladies and gentlemen?  
24 Christian Dawkins knows that coaches have influence over  
25 players. Why is he reaching out to Lamont Evans to get in

1 touch with Jeffrey Carroll if he thinks dealing with coaches  
2 is, in his words, idiotic?

3 What about Book Richardson of Arizona? Well, as you  
4 heard from Munish Sood, when they went out to Arizona in late  
5 August to meet with Book Richardson, Book Richardson set up a  
6 meeting for the group with a guy named Rodney. And Rodney is  
7 what is known in the business as a handler, a guy who was a  
8 relative of Rawle Hawkins and had some influence over him. And  
9 they talked about Richardson in advance of meeting Rodney, why  
10 Rodney was important. And they specifically discussed that if  
11 they had Rodney's support, he would be helpful for them landing  
12 Rawle Hawkins as a client, because this guy, Rawle Hawkins,  
13 really trusted him.

14 And then Jill Bailey thanked Emmanuel Richardson at  
15 the end of that meeting for setting up the meeting with Rodney.  
16 And what was Richardson's response? It was pretty telling: I  
17 did my job. Because, his job, in exchange for the money they  
18 were giving him, was to start steering his players to Dawkins  
19 and his new company.

20 And Sood told you about what happened at the meeting  
21 with Rodney. And as Mr. Sood testified, Rodney indicated  
22 during that meeting that Book Richardson had recommended to him  
23 and Rawle Hawkins that they should go with Christian Dawkins.  
24 What did Rodney tell you Richardson had said to him, if  
25 anything? That we're good people and he would direct Rawle to

1 meet with us and potentially work with us. That's another  
2 example of how Book Richardson, a coach that got paid \$20,000,  
3 thanks to Christian Dawkins, was doing things in return for  
4 that money.

5 What about Tony Bland? They went to California the  
6 next day, August 31st. And as we know, Bland facilitated  
7 meetings for the group with a recruiter named -- the father of  
8 a recruit named Taeshon Cherry, and a relative of a player  
9 named D'Anthony Melton. Munish Sood, during his testimony,  
10 told you about those meetings.

11 Why was Tony Bland setting up meetings for Dawkins and  
12 his guys with the parents of handlers and top players? Because  
13 he was getting paid, and because Dawkins had offered to pay him  
14 in the future and help him land top recruits. And as you saw  
15 earlier, there are phone calls between Bland and Dawkins when  
16 no one else is around, when they talk about the fact that Bland  
17 is going to keep sending them his top players.

18 Now, let me just make a point about the law here, that  
19 Judge Ramos instructed you on, but it's an important one in  
20 this case.

21 If Bland or any of these coaches in this case directed  
22 Dawkins to make payments to third-party parents of players,  
23 families of players, the fact that either the coach got the  
24 money and then he intended to give it to somebody, or that he  
25 was just directing Dawkins and his guys to send it straight to

1 wherever this person was, as long as that money was being sent  
2 to the direction of the coach and was ultimately for the  
3 coach's benefit, then that's a bribe too under the law. And  
4 Judge Ramos already instructed you about that, and you can read  
5 those instructions in the jury room.

6 And Munish Sood explained to you -- and there was a  
7 lot of discussions and lots conversations about why helping  
8 these coaches out with money that they needed to try to recruit  
9 kids to their team by paying handlers and family members and  
10 all those sorts of people, how it helped the coaches. Because,  
11 as Sood told you, if these guys weren't financing them, the  
12 coaches often would have to use their own personal funds to do  
13 this recruiting. And you may recall, Book Richardson described  
14 in a rather colorful fashion how for years he had been draining  
15 his TIAA-CREF retirement account to pay to land all of these  
16 recruits.

17 In addition, as you know, and as was discussed in many  
18 of the recordings, these assisting coaches had a vested  
19 interest in trying to fill the best team possible, because, as  
20 was discussed in numerous meetings and calls, that's how they  
21 get ahead. That's how they ultimately become head coaches.  
22 So, getting top recruits is for these coaches' benefit.

23 Now, when you look at the calls between Bland and  
24 Dawkins, it's very clear that Bland knew all about the payments  
25 and was directing the payments that Dawkins was going to be

1 making. This is a call between Dawkins and Bland:

2 Dawkins tells him the bread that we got to give F-ing  
3 charity and then Peeple and Elliot.

4 He's talking about Jill Bailey, why she wants to talk  
5 to Bland: Making sure that the investment that we provide,  
6 shit gets done.

7 Then he says: Whatever may come in the future,  
8 anything that's needed, like, you know, we can facilitate  
9 everything, basically.

10 It's clear from this call that Tony Bland was well  
11 aware of the bread, the money, that Dawkins was going to be  
12 handing out to Taeshon Cherry's family and the associate of  
13 D'Anthony Melton.

14 And equally important, Dawkins is telling Bland that  
15 he and his new business partners are going to be able to make  
16 payments in the future to help out Bland.

17 Does it sound like Christian Dawkins thinks assistant  
18 coaches like Tony Bland have no influence over which agents and  
19 advisers the players are going to sign with? Absolutely not.

20 Let's turn to the fourth reason that you know these  
21 defendants are guilty.

22 THE COURT: Before we get to the fourth reason,  
23 Mr. Solowiejczyk, would this be a good time to break?

24 MR. SOLOWIEJCZYK: Yes, your Honor.

25 THE COURT: Let's take a fifteen-minute break. We'll

1 bring you back out at 1 o'clock. Don't discuss the case.

2 (Jury not present)

3 THE COURT: Do you still anticipate finishing in  
4 another hour or so?

5 MR. SOLOWIEJCZYK: Yes. I will be done, I think, in  
6 an hour, your Honor. Possibly a little less but probably about  
7 an hour.

8 THE COURT: As long as we don't go past 2:30.

9 MR. SOLOWIEJCZYK: I don't anticipate that.

10 MR. MOORE: Your Honor, can I make one point?

11 We are going to make an application to the Court to  
12 excuse Juror No. 3 and replace her with the alternate because,  
13 not only today, but sort of the cumulative effect of her  
14 sleeping or appearing to be sleeping, it would appear to be  
15 vast portions of this trial.

16 MR. MARK: Your Honor, we've acknowledged what our  
17 personal observations are. If we may have an opportunity to  
18 discuss that before we respond to their application.

19 THE COURT: Very well.

20 (Recess)

21 (Jury not present)

22 MR. HANEY: Your Honor, may we address one thing  
23 before the jury comes in?

24 THE COURT: Yes.

25 MR. HANEY: Let me know when you're ready, your Honor.

1 THE COURT: I'm ready now.

2 MR. HANEY: Your Honor, I would just note that the  
3 Second Circuit's pretty clear that, you know, excessively  
4 referencing a defendant as a liar, repeatedly, over and over  
5 and over, there's case law that that's not appropriate, that if  
6 it's to be referenced on one occasion or twice. But I submit  
7 to the Court that clearly constantly referring to Mr. Dawkins  
8 as excessively being a liar, there's case law right on point  
9 that that's not appropriate in a closing argument.

10 THE COURT: Anyone?

11 MR. HANEY: I can cite the case, your Honor.

12 THE COURT: No. I'm familiar with the case law.

13 MR. HANEY: Thank you.

14 MR. MARK: I would say, given the fact that we all  
15 were here while Mr. Dawkins testified, and there were countless  
16 lies that came out, to not be able to tell the jury that these  
17 are all lies would unnecessarily answer the --

18 MR. HANEY: That's not the point. The point is he's  
19 saying: He's a liar, he's a liar, he's a liar, he's a liar.  
20 It can be taken as mischaracterizing. There are other words he  
21 can use that are not as inflammatory. They know what the case  
22 is. They're hopefully being tongue-in-cheek by making that  
23 comment.

24 THE COURT: You can deal with that in your closing  
25 argument.

1 MR. HANEY: Thank you, your Honor.

2 MR. MOORE: Your Honor, has the government made a  
3 decision about Juror No. 3 and what position they want to take?

4 MR. MARK: I mean, we've been here. Our observations  
5 were -- yeah, were there points in time when she closed her  
6 eyes? Yes, there were. Did it seem like she was not aware of  
7 what was going on or sleeping? That was not clear to the  
8 government by our own observation. She's been quite attentive  
9 throughout the closing argument. For many days, we've seen her  
10 nothing but attentive, so we don't see the basis.

11 MR. MOORE: She has been attentive at times. I'm not  
12 telling your Honor that she hasn't. And I know your Honor has  
13 watched as well, because I've called it to your attention.

14 I will tell you that on a number of occasions, it's  
15 not just eye-closing. When I see eye-closing and  
16 head-dropping, that to me is indicative of sleeping. And I've  
17 seen it more from her than I've seen it from most jurors in  
18 most of the cases that I've tried. It does seem to be a  
19 regular routine problem.

20 And I realize I'm in a better vantage point than the  
21 government. But I'll tell you that everyone at the table has  
22 seen it on multiple repeated occasions. I think your Honor has  
23 seen it at times.

24 THE COURT: I have. And I was concerned early on in  
25 the trial. But I thought that she rebounded. And I actually



1 have a better vantage point perhaps even than the defense  
2 table. And there are times that, because the screens are below  
3 eye level, I see her sometimes, and she appears to be looking  
4 at the screen. I see the pen in her hand. I see the pen  
5 moving. And although if you were to look at her straight on,  
6 you would think she was sleeping. And I have noticed that she  
7 has been very attentive today. So --

8 MR. MOORE: Except for at some points during  
9 your Honor's charge.

10 THE COURT: At that point I obviously wouldn't know.

11 MR. MOORE: I understand that. And I did think  
12 your Honor was being mellifluous, so certainly, she should have  
13 been paying better attention. But there was not only  
14 eye-closing, but there was some dropping of the head.

15 THE COURT: Based on my observations and the  
16 government's observations, the application will be denied.

17 MR. MOORE: Yes, sir.

18 MR. MARK: Your Honor, I just want to note on the  
19 discussion about what Mr. Haney was saying, that the government  
20 was characterizing Mr. Dawkins as liar. I think if we were to  
21 look at the transcript -- and I know this all goes quite  
22 quickly -- the point was that he was telling lies and he told  
23 lies from the witness stand, not so much characterizing him as  
24 a character of a liar. I think there's going to be continued  
25 repeated references to the fact that he has told lies and going

1 through and demonstrating more and more what those lies are.  
2 So we would hope that we won't hear objections constantly  
3 during the closing.

4 MR. HANEY: My only brief response to that would be is  
5 that, I understand what he's saying, but characterizing  
6 somebody and calling them names is a different thing. And  
7 that's clear. I don't think there's any distinction.

8 THE COURT: Well, Mr. Solowiejczyk, I'm sure, will  
9 make the appropriate adjustments.

10 MR. MOORE: The only point that I would make,  
11 your Honor, is I just don't believe in objecting during  
12 people's closing arguments.

13 The statement that gave me concern particularly as it  
14 relates to Mr. Code is when Mr. Solowiejczyk was referring to  
15 fact that he was convicted of an offense that involved lying.  
16 Well, fraud doesn't always involve lying, as we know. The  
17 *Gatto* case involved a right to control issue, which the  
18 government well knows. They well-briefed it. We fought that  
19 instruction, and we lost that instruction. And I was concerned  
20 when Mr. Boone did it on his cross-examination and I objected  
21 then. And so, if there's another reference to that conviction  
22 involving lying, I will be forced to object at that point.

23 THE COURT: I'm sorry. Is the jury ready?

24 Bring them out.

25 (Jury present)

1 THE COURT: Mr. Solowiejczyk.

2 MR. SOLOWIEJCZYK: Ladies and gentlemen, I'm now going  
3 to talk about the fourth reason why you know these defendants  
4 are guilty. And that reason is that the defendants knew this  
5 was wrong. And, ladies and gentlemen, you know that because  
6 they said as much over and over again in recorded  
7 conversations.

8 Remember when Dawkins testified under oath that he  
9 believed he was running a legitimate business? That's simply  
10 not credible, ladies and gentlemen.

11 Both of the compliance officers from the universities  
12 who've testified made it abundantly clear -- and I don't think  
13 there's any dispute in this case about the fact that these  
14 coaches weren't allowed to be taking this money, that it  
15 implicated NCAA rules. It implicated the coaches' employment  
16 agreements and that the coaches would be fired if these  
17 payments were discovered. There's no question that the  
18 defendants knew all of this.

19 And just to give you a couple of examples, at that  
20 first March 3rd, 2016, meeting in South Carolina, Christian  
21 Dawkins said the following:

22 Everything will be lined up because that's his job  
23 too. That's what almost got him by the balls, so to speak.

24 And he went on to say:

25 The one thing I didn't say in front of him -- meaning

1 Lamont Evans -- You can never get caught up because his job is  
2 on the line too, because if he gets caught, if shit doesn't get  
3 done, what he did is wrong too by the NCAA rules, so he's not.

4 Merl Code knew the same thing. The very first time he  
5 spoke with Christian Dawkins and his new business partners,  
6 Code emphasized repeatedly that the coaches they were going to  
7 be dealing with needed to be cautious because the coaches could  
8 be fired if anybody found out about what they were doing. He  
9 talked about how in this business if he gave somebody money and  
10 they didn't do what you wanted them to do, you would have no  
11 recourse. And he also talked about coaches, being nervous and  
12 hesitant, reluctant to meet new folks who aren't in the  
13 basketball space, because there is so much stuff that goes on,  
14 these guys are snapped-finger away from not having a job.

15 So both defendants knew that what they were up to,  
16 they weren't supposed to be doing it; it was wrong.

17 Why was Merl Code at this meeting talking about the  
18 fact that coaches needed to be cautious, that they could only  
19 work with people that they trusted? Because Code knew very  
20 well that the coaches weren't allowed to be taking money, and  
21 that the conversation he was having with Dawkins, D'Angelo and  
22 Blazer that day, was about paying coaches; it wasn't about  
23 merely having a series of introductions or meet-and-greets.

24 But the other way that you know that the defendants  
25 knew that what they were doing was wrong is the steps, the

1 extensive efforts that they took to conceal what they were  
2 doing. And they did that in multiple ways. And the reason  
3 they did that is simple, because if these payments were  
4 discovered, ladies and gentlemen, this whole plan would go out  
5 the window, the coaches would get fired, whatever players they  
6 were hoping to get from these coaches, it wasn't going to  
7 happen, and they weren't going to reap the big profits on the  
8 back end. So they knew they had to be careful. They knew that  
9 they had to keep things under wraps.

10 Let me give a couple of examples that very, very, very  
11 clearly demonstrate that the defendants were taking steps to  
12 conceal what they were doing.

13 When Dawkins was talking to Tony Bland about what  
14 their arrangement was going to be going forward, he talked  
15 about how things needed to be clean.

16 Bland said: I don't want to touch nothing. I want it  
17 all to go through you

18 And Dawkins responded: You need to be as clean as  
19 possible.

20 They went on. Why are they having this conversation?  
21 Because Dawkins knows -- he's saying it right there. Bland  
22 can't get caught taking this money from Dawkins, because if he  
23 does get caught, all of Dawkins' well-laid plans are ruined.

24 What else did they do to conceal this? Well, first of  
25 all, as you saw repeatedly, they paid in cash. And it's an

1 obvious point, ladies and gentlemen, but it's an important one.  
2 Why didn't they just send them a wire or write them a check?  
3 It's simple, because when you pay people that way, it's  
4 traceable. And Dawkins said as much in the very first meeting  
5 he ever had with Marty Blazer and Munish Sood: "He ain't going  
6 to do shit like that now on no paper."

7         The reason these payments are all in cash -- all of  
8 the payments we're talking about in this case -- is because the  
9 defendants knew that for their scheme to succeed they needed to  
10 make sure they didn't get caught. And paying in cash was one  
11 of the ways that they did that.

12         Here's another way. They tried to make sure that they  
13 never put anything in writing. And you heard about a call --  
14 and also that they kept the conversations in a closed circle of  
15 just the people that needed to know.

16         And you heard some conversations and some testimony  
17 from Munish Sood about this as well, that when Merl Code had  
18 that three-way phone call with Munish Sood, Jeff D'Angelo and  
19 Merl Code, he had some concerns. And he actually sent a text  
20 message to Christian Dawkins that read:

21                 Jeff made me a little uneasy today. I'll explain.

22         And you then saw that Dawkins and Sood had a telephone  
23 call where they discussed the fact that Merl was upset because  
24 Jeff D'Angelo had apparently been talking to somebody else in  
25 the background during their conversation, and Merl Code didn't

1 like that, because that was somebody outside the circle of  
2 trust.

3 As Dawkins said: Yeah, it's just stupid. I mean,  
4 definitely, if you're going to call him, you don't have to meet  
5 him in person or anything, but don't call him and like be in  
6 the background talking to somebody else.

7 Now, Christian Dawkins had big concerns about putting  
8 things in writing too. And you heard a call towards the end of  
9 the government's case when he spoke to Munish Sood by phone.  
10 And that call occurred right before Christian Dawkins was going  
11 to send an e-mail. And that e-mail laid out in writing some of  
12 the payments that Dawkins wanted to make going forward. And,  
13 ladies and gentlemen, some of the payments that he wanted to  
14 make -- not all of them, but some of them -- were to coaches:  
15 Preston Murphy, Shane Heron, Kenny Hunter. These were all  
16 payments that Dawkins was proposing in December of 2017.

17 Dawkins was concerned about sending this e-mail that  
18 laid out in writing what he was doing to Jeff D'Angelo's  
19 business partner, Jill Bailey. And what did Dawkins say about  
20 this? Well, in this call with Munish Sood before he sent the  
21 e-mail, he talked about the fact that: There's numbers, names,  
22 it's everything.

23 And then he said: "My concern is what if someone that  
24 we don't know is investigating her and goes into her e-mail?  
25 You know, I'm just always paranoid."

1           Why is Dawkins so concerned? He says it in the call  
2 himself. He's worried that if somebody somehow gets access to  
3 Jill Bailey's e-mails and sees these secret payments that he's  
4 outlined, oh, he's going to get in big trouble, because he  
5 knows that these payments are wrong and illegal; they got to be  
6 kept hidden.

7           Dawkins took other elaborate steps to try to hide what  
8 he was doing. You saw this cryptic text message that he sent  
9 to Jill Bailey, outlining various payments, but using a  
10 combination of letters rather than actually saying who the  
11 payments were for. References like: DTCTB, CKH, ADP. If you  
12 just saw this text message, you wouldn't be able to know what  
13 Dawkins was specifically talking about. And then Dawkins  
14 called Jill Bailey and he decoded this cryptic text message for  
15 her on the phone. And in so doing, he described, among other  
16 payments, payments to coaches and he described that one of the  
17 payments was to Merl Code as well, his monthly retainer.

18           And then he said: "We've got to put funding out and  
19 some of the money can't be completely accounted for on paper  
20 because some of it, whatever you want to call it, illegal,  
21 against NCAA rules or whatever."

22           Just another example of the ways that Christian  
23 Dawkins tried to hide what he was doing and an acknowledgment  
24 that Christian Dawkins knew it was wrong.

25           You also had heard a call between Christian Dawkins



1 and Merl Code, where they talked about all of their suspicions  
2 of Dawkins's new business partners, Jeff D'Angelo and Jill  
3 Bailey. And Code talked about specifically that they needed to  
4 protect themselves: "Like, I need you and I to protect  
5 ourselves, man. I'm just saying this just as a guy who's real  
6 skeptical about this shit."

7 Protect themes? Protect themselves from what? From  
8 other people finding out what they were doing.

9 Then Code went on. He talked about digging in,  
10 looking into these people: Your name is going to be tied to  
11 it. My name's going to be tied to it. You got to be extra  
12 cautious about who you're associating with.

13 And then he said: "Look, they ain't cutting me no  
14 checks for shit. They're going to pay you, and you're going to  
15 pay me."

16 Why all the concerns about Jeff and Jill? Why the  
17 talk about hiring private investigators to look into these  
18 people? Why doesn't Code want to be paid directly by Dawkins's  
19 business partners? Because they know that the payments that  
20 they're engaged in making, they're not actually a legitimate  
21 business. They're wrong. And they're very, very concerned  
22 about who they include in that circle of trust.

23 When Dawkins took the stand and told you again and  
24 again yesterday that he was trying to conduct a legitimate  
25 business, do you seriously believe that? Does any of this

1 sound like the way a legitimate business is conducted? If  
2 Dawkins and Code were engaged in what they considered to be  
3 just merely legitimate business venture, would they be so  
4 concerned about other people finding out? Would they be  
5 talking about hiring private investigators? Would Merl Code be  
6 talking about how he doesn't want to get paid directly by Jeff  
7 and Jill? If Merl Code was just being paid to merely provide  
8 introductions to some coaches, and it had nothing to do with  
9 paying any of them, then why would he have to be so nervous?

10 And just in case it wasn't clear enough, there was  
11 this call between Christian Dawkins and Emmanuel Richardson  
12 that you heard. And they couldn't have put it more bluntly.  
13 They were talking about money going to a recruit. They were  
14 talking about money going to recruit players at the University  
15 of Arizona and trying to get Dawkins to ultimately land those  
16 players.

17 Dawkins said: The funny thing is, they want to talk  
18 to you about the money.

19 Richardson: Uh-huh.

20 Dawkins: You know, but then we all get indicted  
21 together. I'm like, Ah, it's too high for me, bro. You  
22 talking on the phone about shit and everything.

23 Who talks about all getting indicted together? Who  
24 talks about their conduct being illegal? Who sends cryptic  
25 coded text messages that have to be decoded by phone call?

1 Who's so concerned about somebody getting into your e-mail?  
2 People who are trying to hide what they're doing because they  
3 know it's wrong. People who break the law. Guilty men.

4 Now, ladies and gentlemen, when you take all the  
5 evidence that I've walked through, it's simply overwhelming  
6 proof of the defendant's guilt in this case, both Christian  
7 Dawkins and Merl Code.

8 Now, during the defense's case, you heard testimony  
9 from Dawkins. You heard some recordings played. You heard  
10 some questioning of witnesses during this trial by the defense  
11 attorneys. And you've heard through all of that, the defense  
12 advance a number of arguments.

13 I'll remind you again, the government has the burden.  
14 We know that. We embrace the burden. But when the defense  
15 presents evidence to you and makes arguments to you, you're  
16 entitled to, and you should, scrutinize that evidence and those  
17 arguments. And when you do that and you use your common sense,  
18 you will realize that none of these arguments hold any water.

19 So, I'm going to walk through now, a couple of the  
20 defense's primary arguments and why they don't make sense.

21 So, the first argument you heard -- and I've already  
22 addressed it in some detail in talking about Mr. Dawkins's  
23 testimony, so I'll try to be brief -- is that this is all a  
24 hustle. Dawkins and Code don't want to bribe anybody. It's  
25 actually this elaborate shell game and con on Jeff D'Angelo.

1 So, there's lots of reasons why that doesn't make sense. Let  
2 me just point out a few.

3 First of all, this entire concoction of a hustle  
4 happened after the Lamont Evans's conduct. It doesn't explain  
5 away what Christian Dawkins did with Lamont Evans, even if for  
6 some reason you believe this fantastic tale.

7 And you know that for many reasons. One of the most  
8 primary is that Dawkins talked over and over again about the  
9 fact that he had paid Evans in the past -- really based on the  
10 evidence, there's no way to dispute that at this point -- and,  
11 second of all, that he expected something in return. I've  
12 already shown you those calls, so I'm not going to rehash  
13 everything again. So pay attention to them, because that's  
14 really important evidence that Dawkins is guilty even before he  
15 starts Loyd Management.

16 Now, what about the Emmanuel Richardson scheme? Well,  
17 it doesn't explain the \$15,000 payment that Dawkins was urging  
18 D'Angelo to provide to Emmanuel Richardson, so Richardson could  
19 land Javon Quinerly as a recruit. The purpose of that payment  
20 was simple. Dawkins wanted to get the money to Richardson so  
21 Richardson could get the recruit for Arizona, and then  
22 Richardson could steer that player back to him when he turned  
23 pro. And if you look at the text messages and communications  
24 between Richardson and Dawkins around this time, it shows you  
25 that.

1 This is a text from June 26, 2017:

2 Dawkins asks: How did the Quinerly visit go?

3 Richardson says: Well, Moms needed some extra  
4 blessings. That's why I tried to call you. Supposed to make  
5 it public, just to take care of moms.

6 Ladies and gentlemen, you've heard enough about the  
7 world of college basketball, the underworld and the recruiting  
8 process and the way money changes hands to know what this  
9 means. We're talking about the fact Richardson is telling  
10 Dawkins, the mom wants some money.

11 And then there was this call between Richardson and  
12 Dawkins on June 26, 2017. And Richardson described the  
13 conversation he had had with the mom. And he told him, among  
14 other things, that the mom had said: And maybe can you help me  
15 with 20 to \$25,000? That's late June 2017.

16 And then Dawkins responded: So she wants or thinks  
17 that she wants seven grand a year.

18 And he asked: How did she want it?

19 Soon after this call, Dawkins made the ask of D'Angelo  
20 for the \$15,000. And he spoke to Munish Sood about that ask.

21 And he told him: Book needs his 15, but what he's  
22 saying is that's going to close the deal for him with the kid  
23 he's trying to get. Like, that gets it done.

24 And when D'Angelo finally agreed to fork over the  
25 15,000 dollars, Dawkins spoke to Richardson again, and he told

1 him: Jeff can do this supplemental like three months.

2 And as you heard, that related to a monthly fee they  
3 were going to be paying Richardson. He told him: I'm going to  
4 get you that 15 grand.

5 So that's the context, ladies and gentlemen. the  
6 context that leads up to all of that is Richardson tells  
7 Dawkins: I need money to sort out this Quinerly situation.

8 And then Dawkins goes and gets the money from  
9 D'Angelo. That's what happens.

10 And I would remind you again that, as Judge Ramos  
11 instructed you on the law, even if Richardson didn't intend to  
12 keep that money in his pocket, he intended to give it to  
13 somebody else, so long as that money was for Richardson's  
14 benefit, and this was done at Richardson's direction, that  
15 still can be bribery. Guilty on both Richardson, guilty on  
16 Lamont Evans.

17 So, ladies and gentlemen, whatever Christian Dawkins  
18 said on these phone calls you heard about, his frustration with  
19 Jeff D'Angelo at times. None of that explains Lamont Evans,  
20 Emmanuel Richardson or Tony Bland, for that matter. As to each  
21 of these coaches, the evidence is simply overwhelming that  
22 Dawkins directed bribes be paid to these coaches, that he  
23 expected something in return, that he spoke to the coaches  
24 about giving him something in return, and, indeed, that the  
25 coaches began to take actions to steer their players to him.

1 Whatever frustrations that Christian Dawkins had with Jeff  
2 D'Angelo, they don't explain this.

3 And continuing with that point, the second defense  
4 argument is that Dawkins and Code thought the coach's model was  
5 idiotic. You heard Dawkins repeatedly say it was idiotic on  
6 the stand. You heard about it on the calls we played too.

7 This is what the defendants would have you believe,  
8 that they affirmatively never wanted to pay coaches, that  
9 coaches were so utterly useless to them, to their ultimate game  
10 of getting players as clients and making money off them, that  
11 you would never ever pay a college basketball coach. This  
12 argument makes no sense for a number of reasons.

13 First -- as I mentioned before -- the defendants  
14 readily acknowledge in calls and in the testimony of Mr.  
15 Dawkins -- you heard it too -- many places, that they're  
16 willing to pay lots of people who have influence over these  
17 players. They're willing to pay handlers, family members, AAU  
18 coaches, uncles, aunts, every one, except college coaches.

19 And Dawkins had this to say on cross-examination on  
20 this point:

21 "Q. You don't pay college basketball coaches, right?

22 "A. No.

23 "Q. So if a youth basketball coach gets promoted to college,  
24 then you cut off the payments, right?

25 "A. It's a good yes question.

1 "Q. Yes or no?

2 "A. Ask --

3 "Q. A youth basketball coach gets evaluated to becoming a  
4 college basketball coach; is that when you implement your  
5 policy of paying no college coaches?

6 "A. Correct.

7 Ladies and gentlemen, you know this testimony doesn't  
8 make any sense. The reality is that Dawkins and Code were  
9 willing to pay whoever they needed to pay who had influence  
10 over the players. Sometimes that was the handler; sometimes  
11 that was an AAU coach; and sometimes it was a college coach.  
12 And when it was a college coach, the reason they paid these  
13 coaches is because they would steer the players back to them.  
14 It's part of the overall dirty business that Dawkins and Code  
15 were engaged in.

16 Now, the defendants played a couple of telephone calls  
17 of their own. And Dawkins, when he testified, gave you his  
18 interpretation of some of those calls. And the point of that  
19 testimony was to show you that Dawkins and Code, they thought  
20 the coach's model was idiotic, they didn't want to ever pay  
21 coaches in any situation.

22 I'm not going to go through all these calls now. I'm  
23 just going to take a couple and point out some things to you  
24 about these calls. So, when you actually examine the texts of  
25 these calls -- and you should listen to them in the jury room



1 -- you'll realize Dawkins's testimony about what happened on  
2 these calls, it's not the whole story.

3 Let's talk about Defendant's Exhibit 3 in detail. And  
4 you saw Mr. Code's counsel, in particular, ask Dawkins a number  
5 of questions about this June 26, 2017, call between Dawkins and  
6 D'Angelo. And Dawkins said this call was about him trying to  
7 get D'Angelo not to pay any college coaches and instead to pay  
8 Merl Code.

9 And Dawkins said: "So, for us to put all the focus on  
10 a college coach, if you think about it realistically, it just  
11 doesn't make common sense. I'm trying to explain to Mr.  
12 D'Angelo here to get the players as early as possible, build a  
13 real relationship with them, and hopefully one day sign them."

14 When you review the call, that's not the whole story.  
15 Let's go through it together.

16 So, first of all, Dawkins said during this call that  
17 Book Richardson wanted \$5,000 a month. That's Christian  
18 Dawkins' affirmatively saying: We need to get Book paid.  
19 That's not Jeff D'Angelo proposing that. That's Christian  
20 Dawkins proposing that in the call where he supposedly was  
21 telling Jeff D'Angelo that they needed to get off the coach's  
22 model.

23 And Dawkins also acknowledged the following. He said:

24 The fact of the matter is this, Jeff, the coaches have  
25 a level of influence.

1           That's Christian Dawkins telling Jeff D'Angelo that  
2 coaches do have influence. Of course, they do.

3           Now, was Dawkins saying that coaches are the only ones  
4 with influence on this call? No, he wasn't. There are other  
5 people with influence. But he wasn't saying coaches have no  
6 influence. He was saying: You need to be strategic Jeff. You  
7 can't just pay coaches. You got to take the situation as it  
8 comes. And Dawkins acknowledged that during this call.

9           Then Dawkins talked about Merl Code, his close friend.  
10 And he testified that the point with Merl Code was not what he  
11 brought to the table when it came to college coaches, that the  
12 point of paying Code was influenced with high school and NBA.  
13 But he conveniently skipped over college. That doesn't make  
14 any sense either. And he said: If you have a situation where  
15 all the Adidas-sponsored schools and you have all the people  
16 who you have a relationship with from a Nike perspective.

17           What's he talking about there? He's talking about the  
18 Merl Code has got relationships at the college level that he  
19 brings to the table. And that was discussed in significant  
20 length at the June 20th meeting, when they all first met.

21           Then they talked about: What has Merl done for you  
22 this month? This is Dawkins. He said: Listen, he introduced  
23 me to this kid. When we talked, we talked with his coach.  
24 We're doing X, Y, Z. Because there's always something that  
25 we're doing.

1           That's Christian Dawkins saying that there are  
2 different things that needed to be done to recruit different  
3 kids. And one of those things that Merl Code brought to the  
4 table was working with coaches.

5           And finally, he spoke about how it made sense to pay  
6 certain guys, not to pay others. And the two guys he listed  
7 was: You should pay a guy like a Merl or a Book. Pay them,  
8 and at the end of the day, you don't have to deal with the guy  
9 at A&M or F-ing Kansas.

10           So what's he saying? Pay lead coaches like Book  
11 Richardson, pay guys like Merl Code, don't pay guys who are at  
12 schools that don't have top players or are at schools that are  
13 so blue blood that they already got established agency  
14 relationships that we can't break into.

15           (Continued on next page)

16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 MR. SOLOWIEJCZYK: (Continued) Because these guys with  
2 their upstart company, they weren't going to break into a  
3 school like Kansas, and they acknowledged that.

4 So, yes, in this call Christian Dawkins has a very  
5 subtle understanding about how all of this works, and it's not  
6 as simple as every situation you always pay a college coach,  
7 but he's not saying you never pay a college coach. He's saying  
8 you pay a college coach in the right situation. And as you saw  
9 from his actions and his words, Book Richardson certainly was  
10 such a situation. Christian Dawkins drove the bus on that  
11 entire thing.

12 Let me talk about one more call, Government  
13 Exhibit 104. This was a call between Christian Dawkins and  
14 Munish Sood. And this was the call where, after Emanuel  
15 Richardson got the first \$5,000, they were laughing at Jeff  
16 D'Angelo for paying him. And you remember Mr. Sood spoke about  
17 this during his testimony, and he acknowledged they were making  
18 fun of him. And what he said was, the reason they were making  
19 fun of him is he gave Richardson \$5,000, and I wasn't sure why  
20 he gave the money to him.

21 And in that call they also said: I think Jeff is  
22 high. We don't want to wake him up. He's dying. And Dawkins  
23 says: Oh, I know, trust me. I'm not gonna say anything.

24 Yes, they are laughing at Jeff D'Angelo in this call  
25 for paying Richardson because, from their perspective, as guys

1 who want to get players and make money on business, they're not  
2 really sure why he's just giving him \$5,000 without it being  
3 clear what they're going to receive in return.

4 But Sood explained to you that there was a distinction  
5 between the \$5,000 payment that D'Angelo made to Richardson and  
6 the \$15,000 payment that followed. And that distinction, in  
7 his mind and Dawkins' mind, was the \$15,000 payment was to get  
8 a recruit for Richardson. It had a purpose, and there was  
9 something specific that they were going to get in return for  
10 it. If you look at the calls between Dawkins and Sood, when it  
11 comes to the \$15,000 payment, they're clearly supportive of  
12 making that payment. They are not laughing at Jeff D'Angelo  
13 about considering making that payment. Quite the opposite,  
14 they're both saying Jeff should make this payment to  
15 Richardson.

16 So that's the distinction, and it's an important one  
17 because, yes, these guys don't want to just throw money in the  
18 wind. They want to pay when it makes sense, and they don't  
19 want to pay when they think it's idiotic.

20 Let me talk about another defense argument -- I'll be  
21 brief on this -- the notion that if the coaches weren't going  
22 to keep the money, that that would somehow would be a defense.  
23 That the money's going to recruits. I've discussed that at  
24 length, ladies and gentlemen. You've heard Judge Ramos'  
25 instructions on the law. That is no defense to the charges in

1 this case. Whether or not the coaches intended to keep the  
2 money in their own pocket or intended to use it to get  
3 recruits, at the end of the day, that's not relevant. They're  
4 both bribes as long as it was at the coach's direction for the  
5 coach's benefit.

6 Let me talk about another, the fourth defense  
7 argument. This one is that the coaches were just Dawkins' and  
8 Code's friends and that they were going to send them all these  
9 kids as clients anyway. Basically, that they didn't need to  
10 pay any coaches because all these coaches were going to be  
11 steering all these players to them.

12 Now, ladies and gentlemen, for a number of reasons  
13 that I've laid out during this closing statement, that doesn't  
14 make any sense. All of the evidence in this case has shown you  
15 time and time again that these assistant coaches will steer  
16 their players to whoever is willing to pay them, and in this  
17 case it was Christian Dawkins and Merl Code. You heard Dawkins  
18 say a number of times that as to Book Richardson, he was going  
19 to send them players anyway. That argument doesn't hold any  
20 water because, as you heard in cross-examination, none of these  
21 coaches before Christian Dawkins started paying them had ever  
22 sent him any players or ever offered to send him any players.

23 Let me deal with a defense argument that relates  
24 specifically to Merl Code, and this is a very important  
25 argument that we're going to take head on. This is the notion

1 that Merl Code got paid -- it's clear he did get paid by Loyd  
2 Inc. just for making introduction to coaches, but then Merl  
3 Code never intended for any coaches to get bribed. I'm going  
4 to spend a few minutes now telling you why, when you consider  
5 all the evidence, that doesn't make any sense.

6 So, first, I mentioned this before, Merl Code knew  
7 Dawkins, D'Angelo, Blazer, the guys he was dealing with, they  
8 paid coaches. He knew they had paid Book Richardson hours  
9 before he first met with them to talk about how they would work  
10 together, and he knew that Dawkins had paid Lamont Evans in the  
11 past. So going into this whole thing, he knows who he's  
12 dealing with. He's dealing with guys that pay coaches.

13 Let's talk about the June 20 meeting that you saw the  
14 video of between Merl Code, Dawkins, D'Angelo, Bailey, Blazer,  
15 Sood, and a couple other people. I just want to walk you  
16 through some of the things that Merl Code said during that  
17 meeting when he didn't know anybody was listening.

18 By the way, in advance of that meeting, he  
19 acknowledged that Book Richardson -- he knew Book Richardson  
20 had gotten \$5,000. He talked about -- you can skip ahead,  
21 Ms. Bustillo. OK. You can skip ahead of this one too. You  
22 can skip that one.

23 All right. So one of the first things he talked about  
24 at the June 20 meeting was that this was a corrupt space where  
25 everybody was cheating, that it was messy. There was a lot of

1 money involved, and then he talked about the fact that  
2 assistant coaches or college coaches would take a kid when they  
3 came to their school, and they'd put them with their people.  
4 What was Code saying here? He was saying that sometimes an AAU  
5 coach or handler would send players to a particular school  
6 thinking that they would still control them, but that the  
7 coaches would take control of them and send them to the agents  
8 that they had relationships with. That's important because  
9 Merl Code's acknowledging there that he knows coaches have  
10 important influence in this process.

11 And they talked about specific situations. They  
12 talked about this Brian Bowen situation. And Code said that  
13 there were certain schools that he wouldn't want Brian Bowen to  
14 go to because if Brian Bowen went to those schools with those  
15 coaches, they would never get him back. Why wouldn't they get  
16 him back? Because those coaches were going to steer that  
17 player to their own relationships. Again, Merl Code knowing  
18 the college coaches have influence and are a very important  
19 part of the process in determining who a player will ultimately  
20 sign with.

21 Now, Code didn't just explain why college coaches were  
22 important. He talked about in specifics why it makes sense to  
23 pay certain coaches, how you should pay them, and how they  
24 could steer players back to the company. Let's walk through a  
25 couple of the things he said.



1           So Dawkins said that they wanted to use Code as like a  
2   *consiglieri* type, payroll, whatever the case may be. Then  
3   Dawkins said: So, like, we talked about identifying, you know,  
4   a group of kids early so if we can, if we can bring Merl in  
5   from the Adidas side, or you could bring us, that's value.  
6   Then he mentioned: It will help some of the coaches that we're  
7   involved with.

8           It's very clear Dawkins is saying it outright, Merl  
9   Code's going to help us identify coaches that we can work with,  
10   and then Dawkins and his team will help some of the coaches.  
11   What help are they going to provide? How could some real  
12   estate investor in New York help NCAA men's college basketball  
13   coaches? Money, that's the help that these guys can provide.  
14   Money that greases everything in the corrupt underbelly of  
15   college basketball.

16           What does Code offer to do in that meeting? He's  
17   going to start introducing them to coaches. This is what Code  
18   said: Well, I think we need to prep them in terms of what  
19   the -- the ask or what they're requiring, what are the  
20   expectations in terms of what are we expecting of them as  
21   coaches.

22           What Code says about these coaches, we need to prepare  
23   them about what we're asking of them, what they're requiring,  
24   what are they requiring? Money, resources. And in the next  
25   breath he talks about what they're expecting from them. This

1 for that.

2           You know that Code's talking about money because he  
3 goes on to talk about the fact that these coaches need to be  
4 really careful, that they're nervous, and that they could lose  
5 their jobs: A lot of college coaches, they're nervous,  
6 hesitant, reluctant to meet new folks who aren't in the  
7 basketball space. There's so much stuff that goes on, and  
8 these guys are a snapped finger away from not having a job.

9           Christian Dawkins then went on to explain to the  
10 group, right in front of Code, how this was going to work:

11           I think that the key is to identify guys who we -- who  
12 think how we think, and then we activate them as it comes  
13 because it could be, like I told you, everybody doesn't need to  
14 be like on a retainer-type monthly-type deal.

15           Well, come to me, then, because I don't want to keep  
16 giving you something just throwing money down the drain.

17           And he talks about a specific example where you have a  
18 coach who is trying to recruit a hypothetical player, and they  
19 need 20 grand to figure it out. And what they're going to do  
20 is say, come to me, and we'll give you the money. That's  
21 actually exactly what happened with Jahvon Quinerly, by the  
22 way.

23           And Code says: That's our value to you guys, is to  
24 make sure you aren't just randomly spending money.

25           This entire conversation is premised on the notion

1 that they are going to be spending money, giving money  
2 ultimately to coaches to assist them. Read the transcript.  
3 It's the Government Exhibit 510A and B series. Ladies and  
4 gentlemen, respectfully, there is no other way to understand  
5 this conversation when you use your common sense.

6           So what is after this meeting where they've laid out  
7 the fact that they're going to pay coaches? There's some  
8 discussion about how we're going to do it, when they're going  
9 to do it, why they're going to do it, but they're going to pay.  
10 What does Code do next? Well, he agrees to set up a series of  
11 meetings for them in Las Vegas with various coaches that he has  
12 connections with, and he ultimately sends, after a series of  
13 back and forth with Christian Dawkins, a list of coaches and a  
14 schedule of meetings for Las Vegas. It's got lots of coaches  
15 on it. As I mentioned before, some of the coaches on the list  
16 got paid. As you heard, Code is getting paid for setting up  
17 these meeting. There was a call between Dawkins and Code where  
18 he asked him how many he's going to set them up to meet, and  
19 Code responded: I mean, how many you paying me for? Because  
20 that's the better question. Code wants to get paid for doing  
21 this, that's clear.

22           So what did Merl Code tell Jeff D'Angelo going into  
23 these meetings? You've heard some arguments and some  
24 questioning regarding the fact that Merl Code told Jeff  
25 D'Angelo not to bribe any coaches, not in Las Vegas, not ever.

1 But when you scrutinize the evidence and you examine what Merl  
2 Code actually said, that's not what happened. Merl Code was  
3 experienced in the business. He'd been doing this for years.  
4 He was smart, and he knew that you don't just go around handing  
5 out envelopes of cash to coaches that you've met for the first  
6 time. You needed to be careful because these coaches weren't  
7 allowed to be taking this money. If you just showed up at the  
8 first meeting with a big envelope of cash, you were going to  
9 spook the coaches; you were going to harm Merl Code's  
10 relationship with them.

11 Let's look at exactly what Merl Code told Jeff  
12 D'Angelo in advance of the Las Vegas meetings, Government  
13 Exhibit 301:

14 And like -- like I told you, just so you have a very  
15 clear understanding, like, these guys, these guys are not going  
16 to -- I want you to understand how to approach this. They're  
17 not going to accept or take anything from you because they  
18 don't know you. But what they will do is say, Hey, look, I'm  
19 here because of our relationships with a Christian or Merl, and  
20 so there may be some scenarios or situations where I may need  
21 your help, because most of these guys don't need anything on a  
22 monthly basis. And that's like I told you, we're going to save  
23 you money. So there will be some scenarios or situations with  
24 particular kids where, yes, we'll need some assistance, but the  
25 majority of them will be like, nah, you know, you know, if I

1 need something, then I'll holler at those guys, because, again,  
2 they don't know who to trust. They don't know who they can  
3 talk to and who they can't talk to.

4 This conversation is critically important, ladies and  
5 gentlemen. Merl Code knows these guys want to pay coaches.  
6 That's clear from the conversation, number one. What is he  
7 specifically telling Jeff D'Angelo going into the Las Vegas  
8 meetings? Yes, he's telling him, don't just show up with an  
9 envelope of cash and throw it on the table. He doesn't want  
10 his coaches to get spooked. He says they don't know who to  
11 trust.

12 But that's not all that he's saying, ladies and  
13 gentlemen. He's telling D'Angelo what the script is. You  
14 offer to help these coaches out in the future when they need  
15 something for a specific situation, a recruiting need,  
16 something like the Jahvon Quinerly situation that I spoke about  
17 earlier. Bribe the coaches in the right way at the right time.  
18 Don't just show up with a big envelope of cash. That's what  
19 Code laid out there. But he's not telling Jeff D'Angelo,  
20 you're never going to pay these coaches. He's telling them,  
21 have the initial conversation. Let them know you're here for  
22 them, and down the road, they'll come back to you, and they'll  
23 ask for money, once the trust is established.

24 That's, ladies and gentlemen, what Merl Code did,  
25 plain and simple. And I would take Government Exhibit 301 and

1 respectfully just -- it's a very important exhibit when it  
2 comes to Merl Code. Examine it closely. When you use your  
3 common sense and you take a look at what Merl Code actually  
4 said to Jeff D'Angelo, he is laying out that down the road  
5 D'Angelo is going to pay these coaches, just not right out of  
6 the gate.

7 And, ladies and gentlemen, he also said the same thing  
8 to Christian Dawkins. This is Government Exhibit 116. He's  
9 talking about these upcoming meetings:

10 Like, listen, don't come in here with, we're going to  
11 put some money in your pocket, I'm going to hand you an  
12 envelope, no. Look, I'm here because of my relationship with  
13 Merl. He told me that you guys have access to a couple of  
14 different things going into the recruiting space and that if  
15 and when I need you, I'll call you.

16 What does that mean, if and when I need you, I'll call  
17 you? How would these coaches need Jeff D'Angelo, some random  
18 real estate investor from New York? What need would they have  
19 for this guy? One need and one need only: Money.

20 So that's what Merl Code actually said, and that's  
21 entirely consistent, ladies and gentlemen, if you look at what  
22 happened in many of these Las Vegas meetings with many of the  
23 coaches that were on Merl Code's list. That's entirely  
24 consistent with the conversations that took place during those  
25 meetings because, as you heard from Marty Blazer, not every

1 coach got paid in Las Vegas. Some did and some didn't, but the  
2 ones who didn't had a conversation in almost every instance  
3 with the group about how they could work together in the  
4 future, and that conversation was about money. And you have  
5 those recordings and you have those transcripts. That's what  
6 was talked about.

7           So what happened at those meetings was exactly what  
8 Merl Code said should happen: Build trust with the coaches,  
9 offer to give them money in the future as they needed it,  
10 exactly as Code told them that they should at the June 20  
11 meeting and subsequent phone calls. Those meetings in Las  
12 Vegas were not the end of the road; they were the beginning of  
13 it. Code furthered the scheme by facilitating introductions to  
14 coaches, coaches that were dirty, coaches that would openly  
15 talk in the Las Vegas hotel room with guys they'd met for the  
16 first time about what players they had and what these guys  
17 could do for them: bribes. So the fact that no money changed  
18 hands in many of the Las Vegas meetings that Merl Code set up,  
19 that ultimately is not a defense. Merl Code furthered this  
20 bribery conspiracy. He made a handsome profit doing so by  
21 getting Dawkins and his new business partners in front of  
22 coaches that they could work with in the future and work with  
23 by giving them money in return for players.

24           Ladies and gentlemen, finally, I'm just going to talk  
25 very, very briefly about the cooperating witnesses. Marty

Blazer, obviously, is a convicted fraudster, stole his clients' money. Munish Sood also has pled guilty, as you heard. These witnesses, as you heard from their testimony, have no incentive to lie. That was laid out in detail. But this is the more important point. Everything they're talking about, everything they told you from the witness stand, it's all in tapes, it's all documented, it's all corroborated. Pretty much everything that the government laid out for you today is the defendants' own words and actions. So these cooperating witnesses, they are completely backed up and corroborated by the other evidence in the case.

So, ladies and gentlemen, I'm going to briefly speak to you about the charges. Judge Ramos gave you very detailed instructions on the law. I'm just going to highlight a couple of things very briefly.

Defendants are charged with conspiracy, honest services fraud, offering and pay bribes, conspiracy to violate the Travel Act. The heart of the charges is the *quid pro quo* I've been talking about all afternoon. When it comes to the honest services fraud count, you heard that there needs to be an interstate wire in furtherance of the scheme, and as Judge Ramos told you, that can be a phone call or an email, and it just needs to be between two states. You heard lots of evidence about how various members of this conspiracy resided in different places.



1 As to the conspiracy counts, the question is was there  
2 an unlawful agreement and they intentionally and voluntarily  
3 joined the conspiracy?

4 As to the Travel Act, you heard that it is a federal  
5 crime to travel in interstate commerce or use a facility of  
6 interstate commerce, which includes emails, for the purpose of  
7 carrying out unlawful activities.

8 Now, ladies and gentlemen, the last thing I'm going to  
9 talk to you about is an instruction Judge Ramos gave you about  
10 a term called "conscious avoidance." As Judge Ramos instructed  
11 you this morning, if a defendant deliberately closes his eyes  
12 to what otherwise would have been obvious to him, if he  
13 willfully and intentionally tried to remain ignorant of a fact  
14 that is material and important to his conduct in order to  
15 escape the consequences of criminal law, that is still acting  
16 knowingly.

17 Ladies and gentlemen, that instruction is particularly  
18 relevant when you consider Merl Code, because in the context of  
19 whether Merl Code joined the conspiracies that are charged, you  
20 can and you should find beyond any reasonable doubt that, at a  
21 minimum, he engaged in conscious avoidance because, based on  
22 everything he knew about what Dawkins and D'Angelo were up to,  
23 his knowledge that they had previously bribed coaches and had  
24 every intention of continuing to do so, his advice to D'Angelo  
25 to have conversations with these coaches about the ways that he

1 could give them money going forward, Code would have had to  
2 deliberately close his eyes to what otherwise would have been  
3 obvious, that Dawkins and D'Angelo were going to seek to bribe  
4 coaches in the future, coaches that Merl Code was introducing  
5 them to. So you can find Merl Code guilty on that basis as  
6 well.

7 Ladies and gentlemen, I'm about to sit down. At the  
8 beginning of this case, we told you to use your common sense.  
9 I'm going to ask you to do that again, because if you use your  
10 common sense, you will reach the only verdict that is  
11 consistent with the law and with the evidence, that the  
12 defendants are guilty.

13 THE COURT: Thank you, Mr. Solowiejczyk.

14 Ladies and gentlemen, as was the case yesterday, we're  
15 going to have to finish a little bit early. We have some  
16 additional arguments that are going to be presented to you.  
17 We're not going to be done before 2:30, so we're going to break  
18 now. I think Ms. Rivera may have some administrative stuff for  
19 you folks to work on just now, so you may not be able to leave  
20 right away, but we will see you bright and early Monday  
21 morning. Please be prepared so we can come out at 9:30.

22 Until then, please do not read anything you may see  
23 about this case. Please do not watch anything you may see in  
24 the media about this case. Have a very pleasant weekend, and  
25 we'll see you soon. Don't discuss the case.

1 (Jury excused)

2 THE COURT: Everyone can be seated.

3 I take it folks are standing by their predictions of  
4 yesterday, so about an hour and 15, Mr. Haney?

5 MR. HANEY: Perhaps an hour and a half, your Honor.

6 No longer.

7 THE COURT: OK.

8 MR. MOORE: Given today, 45 minutes to an hour, Judge.

9 THE COURT: OK. Who's doing the --

10 MR. BOONE: I am. Probably around 45 minutes.

11 THE COURT: Or less?

12 MR. BOONE: Or less.

13 THE COURT: OK. Anything else?

14 MR. MOORE: Just one question, your Honor. When they  
15 get the case on Monday, what are their hours? Are you going to  
16 let them set their hours? Are they going to make --

17 THE COURT: I will give them the option of staying  
18 with the schedule or staying later. I always say, look, if you  
19 think you're getting close to a verdict and you think you  
20 may -- you want to stay an extra hour, we're not going to get  
21 in your way. We'll work 9:30 to 2:30 or longer if you wish.

22 MR. MOORE: Yes, sir.

23 MR. HANEY: Thank you, your Honor.

24 THE COURT: Have a good weekend, folks.

25 (Adjourned to May 6, 2019, at 9:00 a.m.)